

**Volume 2**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1976**

**Constitution of 1879 as Amended**

**Measures Submitted to Vote of Electors,  
Primary Election, June 8, 1976,  
and General Election, November 2, 1976**

**General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature**

**1975-76 Regular Session**



*Compiled by*  
**BION M. GREGORY**  
*Legislative Counsel*



## CHAPTER 995

An act to amend Section 1609 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 15, 1976. Filed with  
Secretary of State September 16, 1976.]

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

SECTION 1. Section 1609 of the Revenue and Taxation Code is amended to read:

1609. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The applicant shall have the right to introduce evidence concerning the terms of sales of comparable property that has been sold.

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CHAPTER 996

An act to amend Section 1241.1 of the Business and Professions Code, relating to clinical laboratory technology.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 16, 1976.]

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

SECTION 1. Section 1241.1 of the Business and Professions Code is amended to read:

1241.1. On and after January 1, 1972, the department shall require a laboratory exempt from this chapter pursuant to subdivisions (b) or (g) of Section 1241 to demonstrate satisfactory performance in a proficiency testing program approved by the department in laboratory procedures which such a laboratory performs.

The department shall adopt regulations establishing the standards of satisfactory performance. Such standards shall not be higher than those established for licensed laboratories.

Physicians and surgeons who are tested under this section shall certify to the department, under penalty of perjury, that the proficiency test was performed in their own laboratory.

## CHAPTER 997

An act to add Sections 19019.1 and 19019.2 to the Welfare and Institutions Code, relating to rehabilitation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1976 Filed with  
Secretary of State September 16, 1976.]

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

**SECTION 1.** The Legislature finds that it is in the public interest that nonprofit corporations in the private sector continue to provide employment for blind and otherwise handicapped persons and to give them opportunity for training and experience on the job, which will enable them to contribute to their own support. In order to carry out such public purposes the Legislature declares that it is essential that such nonprofit corporations be able to attract private capital to achieve financial and economic recovery and that existing indebtedness to the state not hamper such recovery.

**SEC. 2.** Section 19019.1 is added to the Welfare and Institutions Code, to read:

**19019.1.** Notwithstanding Section 19019 the Director of General Services with the approval of the director shall take any or all of the following actions as are necessary to permit the nonprofit corporation operating manufacturing centers, salesrooms, or opportunity centers under Section 19019 to secure adequate working capital and achieve economic and financial recovery:

(a) Subordinate the state's interest in any real property held in trust by the nonprofit corporation in order to secure loans from private lenders. Any such loans shall be approved only under the following conditions:

(1) Loans shall be made consistent with the public policy of maintaining employment opportunities for blind and otherwise handicapped persons;

(2) An aggregate loan of at least one million one hundred thousand dollars (\$1,100,000) shall be obtained by the corporation on or before December 31, 1976; and,

(3) The trust created under Section 19019 shall not terminate during the term of such loan or loans except that in the event of foreclosure the property may be sold free of the trust and the net proceeds after satisfying any foreclosed loans secured by the real property shall be deposited into the General Fund of the State Treasury.

(b) Terminate the trust for the purpose of liquidating the real property; provided, however, that the proceeds from any such liquidation shall continue to be held in trust for the purpose of maintaining employment opportunities for blind and otherwise handicapped persons.

(c) Any sale of the real property shall be subject to approval by the Department of General Services before the sale shall be final and effective, and such sale shall not be approved unless the sale price is equal to the reasonable fair market value of such real property.

SEC. 2.5. Section 19019.2 is added to the Welfare and Institutions Code, to read:

19019.2. The nonprofit corporation under Section 19019 shall submit a quarterly report consisting of the quarterly operating statements and financial projections for future operations including sales and cash flow forecasts, to the Legislature through the department. The department shall transmit such report along with any of its findings or recommendations concerning the report to the Legislature within 10 days after its receipt.

SEC. 3. Because of hardships under past law and to promote financial and economic recovery the state shall defer the payments, including interest, due or to become due on any debt to the state incurred by the corporation at the time of transfer by the state under Section 19019 of the Welfare and Institutions Code until June 30, 1978. Sixty days prior to the deferred payment date the Department of Rehabilitation, if the corporation is substantially fulfilling the trust purposes under Section 19019, may submit to the Legislature a recommendation, approved by the Department of General Services, that the debt and all interest payments accrued shall be discharged as of the deferred payment date. Upon appropriate legislative action the debt shall be discharged at such time and upon such conditions as the Legislature may impose. Nothing in this section shall be deemed to effect a release or discharge by the state of any other debts of the corporation whether known or unknown, or held by public or private creditors; nor shall anything be deemed to release in any manner any action and cause of action of whatever kind or nature which the state or the nonprofit corporation may have against third parties; nor shall anything in this section be deemed to limit in any manner any legal remedies which the state or the nonprofit corporation may have against such third parties.

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

It has been determined that the California Industries for the Blind and opportunity work centers should continue to be operated by a nonprofit corporation within the private sector rather than by the state. In order for the private corporation to achieve financial and economic recovery thereby continuing and enhancing the employment and earning capacity of the employees involved it is necessary that this act take immediate effect.

## CHAPTER 998

An act to add Article 5.5 (commencing with Section 26575) to Chapter 5 of Division 21 of the Health and Safety Code, relating to frozen products.

[Approved by Governor September 16, 1976. Filed with Secretary of State September 17, 1976.]

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

**SECTION 1.** The Legislature declares its concern for the quality of meat, poultry, and fish. It is a fact that meat, poultry, and fish are often frozen after processing, thawed before display and sale, and then refrozen and thawed before meal preparation by the consumer. Such meat, poultry, or fish suffers a significant loss in quality. It is the intent of the Legislature to inform retail purchasers of meat, poultry, and fish as to whether the meat, poultry, or fish has ever been frozen.

**SEC. 2.** Article 5.5 (commencing with Section 26575) is added to Chapter 5 of Division 21 of the Health and Safety Code, to read:

**Article 5.5. Frozen Products**

26575. (a) No retail food production and marketing establishment shall advertise, label, or otherwise hold out as fresh any meat, poultry, or fish which has been previously frozen.

(b) For purposes of this section:

(1) "Frozen" means any meat, fish, or poultry stored in a room or compartment in which the temperature is plus five degrees Fahrenheit or lower.

(2) "Retail food production and marketing establishment" means any room, building, or place, or portion thereof, maintained, used, or operated for, or in conjunction with, the retail sale of food, or preparation of food. "Retail food production and marketing establishment" does not include any restaurant, such as any "itinerant restaurant," any "vehicle," and any "vending machine" as defined in Chapter 11 (commencing with Section 28520) of Division 22; any "bakery" as defined in Chapter 6 (commencing with Section 28190) of Division 22; any wholesale food manufacturing, distributing, or storage establishment, including, but not limited to, the licensed premises or branch office of any winegrower, any brandy manufacturer, or any wine blender, subject to the provisions of Chapter 7 commencing with Section 28280) of Division 22; and frozen food locker plant subject to the provisions of Chapter 12 (commencing with Section 28700) of Division 22; any health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of Division 2; any community care facility subject to the provisions of Chapter 3 (commencing with Section 1500) of Division 2; or any "official establishment" subject to the provisions of Chapter

4 (commencing with Section 18650) of Part 3 of Division 9 of the Food and Agricultural Code.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

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## CHAPTER 999

An act to amend Section 9889.51 of the Business and Professions Code, relating to air pollution.

[Approved by Governor September 16, 1976 Filed with  
Secretary of State September 17, 1976.]

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

SECTION 1. Section 9889.51 of the Business and Professions Code is amended to read:

9889.51. (a) The department shall, with the cooperation of the State Air Resources Board and the Department of the California Highway Patrol, design and adopt a program for the mandatory periodic exhaust emission inspection of all motor vehicles registered in those portions of the Counties of Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura that lie within the South Coast Air Basin, as described by regulation of the Air Resources Board in Section 60104 of Title 17 of the California Administrative Code, as that section read on January 1, 1976, and of all motor vehicles owned by governmental entities and public utilities and registered elsewhere in the state but garaged in such portions of such counties, except that:

(1) The department shall exempt from the exhaust emission inspection portion of the program every motorcycle, as defined in Section 400 of the Vehicle Code, and every motor vehicle weighing over 6,001 pounds, until such time when the department, in conjunction with the State Air Resources Board, determines that the inclusion of such vehicles is technologically and economically feasible.

(2) The department may, by regulation, exempt from the program classes of specialized motor vehicles which the department, in conjunction with the State Air Resources Board, determines would present prohibitive inspection problems.

The exhaust emission inspection of each motor vehicle shall include all of the following:

(1) A determination that all exhaust emission control equipment and devices required by state and federal law are installed and functioning correctly, and that the vehicle's engine is functioning correctly with respect to its level of emissions over its full normal range of operation.

(2) A measurement of the vehicle's hydrocarbon, carbon monoxide, and oxides of nitrogen emissions, performed with a dynamometer, or equivalent device, using a probe or other device to sample the vehicle's exhaust.

(3) A determination as to whether the vehicle complies with the exhaust emission standards for that vehicle's class and model year as prescribed by the State Air Resources Board pursuant to Section 43010 of the Health and Safety Code.

(4) Where applicable, a written indication to the vehicle's owner of the probable cause of any malfunction or misadjustment responsible for the vehicle's failure to comply with such standards and of any maintenance or repairs recommended to correct such malfunction or misadjustment.

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## CHAPTER 1000

An act to amend Section 674 of, to add Section 690.31 to, and to repeal Sections 682b and 690.235 of, the Code of Civil Procedure, relating to execution and attachment.

[Approved by Governor September 16, 1976. Filed with Secretary of State September 17, 1976.]

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

SECTION 1. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) An abstract of the judgment or decree of any court of this state, including a judgment entered pursuant to Chapter 1 (commencing with Section 1710.10) of Title 11 of Part 3, or a judgment of any court sitting as a small claims court, or any court of record of the United States, the enforcement of which has not been stayed on appeal or pursuant to Section 1710.50, certified by the clerk, judge or justice of the court where such judgment or decree was rendered, may be recorded with the recorder of any county and from such recording the judgment or decree becomes a lien upon all the real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterward and before the lien expires, acquire. Such lien continues for 10 years from the date of the entry of the judgment or decree unless the enforcement of the judgment or decree is stayed on appeal or pursuant to Section 1710.50 by the execution of a sufficient undertaking or the deposit in court of the requisite amount

of money as provided in this code, or by the statutes of the United States, in which case the lien of the judgment or decree, and any lien or liability now existing or hereafter created by virtue of an attachment that has been issued and levied in the action, unless otherwise by statutes of the United States provided, ceases, or upon an undertaking on release of attachment, or unless the judgment or decree is previously satisfied, or the lien otherwise discharged. The abstract above mentioned shall contain the following: title of the court and cause and number of the action; date of entry of the judgment or decree; names of the judgment debtor and of the judgment creditor; amount of the judgment or decree, and where entered in judgment book, where entry in a judgment book is required, minutes or docket in the justice court.

(b) An order made pursuant to subdivision (b) of Section 908 of the Welfare and Institutions Code shall be considered a judgment for the purposes of subdivision (a) of this section.

(c) With respect to real property containing a dwelling house judicially determined to be exempt from levy of execution pursuant to the provisions of Section 690.31, as distinguished from property subject to a declared homestead created pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code, a judgment lien created pursuant to subdivision (a) of this section shall attach to such real property notwithstanding the exemption provided by Section 690.31.

SEC. 2. Section 682b of the Code of Civil Procedure is repealed.

SEC. 3. Section 690.235 of the Code of Civil Procedure is repealed.

SEC. 4. Section 690.31 is added to the Code of Civil Procedure, to read:

690.31. (a) A dwelling house in which the debtor or the family of the debtor actually resides shall be exempt from execution, to the same extent and in the same amount, except as otherwise provided in this section, as the debtor or the spouse of the debtor would be entitled to select as a homestead pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code. For the purpose of this section, "dwelling house" means the dwelling house together with the outbuildings and the land on which the same are situated.

(b) The exemption provided in subdivision (a) does not apply:

(1) Whenever the debtor or the spouse of the debtor has an existing declared homestead on any property in this state other than property which is the subject of a proceeding under subdivision (c) of this section. The existence of a homestead declared by the debtor or the debtor's spouse under Section 1300 of the Civil Code shall not affect the right of the other spouse to an exemption under this section.

(2) Whenever a judgment or abstract thereof or any other obligation which by statute is given the force and effect of a judgment lien has been recorded prior to either:

(i) The acquisition of the property by the debtor or the spouse of the debtor; or

(ii) The commencement of residence by the debtor or the spouse of the debtor,  
whichever last occurs.

(3) Whenever the execution or forced sale is in satisfaction of judgments obtained:

(i) On debts secured by mechanics, contractors, subcontractors, artisans, architects, builders, laborers of every class, or materialmen's or vendors' liens upon the premises;

(ii) On debts secured by encumbrances on the premises executed and acknowledged by husband and wife, by a claimant of a married person's separate homestead, or by an unmarried claimant; or

(iii) On debts secured by encumbrances on the premises, executed and recorded prior to or in connection with the acquisition of the property by the debtor or the spouse of the debtor.

(c) Whenever a judgment creditor seeks to enforce a judgment against a dwelling house, the judgment creditor shall apply to the court in the county in which the dwelling house is located for the issuance of a writ of execution. The application shall be verified and describe the dwelling house and state that either or both of the following facts exist:

(1) The dwelling house is not exempt, the reasons therefor, and (i) that a reasonable search of the records of the office of the county recorder has not resulted in the finding of a declared homestead of the debtor or the spouse of the debtor on the subject dwelling house, and further, that a reasonable search of the records of the county tax assessor indicates that there is no current homeowner's exemption claimed by either the debtor or the spouse of the debtor on the subject dwelling house, or (ii) that the records of the county tax assessor indicate that there is a current homeowner's exemption claimed by either the debtor or the spouse of the debtor on the subject dwelling house but the judgment creditor believes for reasons which shall be stated in the application that the debtor or the spouse of the debtor is not entitled to the exemption provided in this section.

(2) The current value of the dwelling house, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption.

If an application alleges facts solely pursuant to paragraph (2) or the court determines that a writ may issue only under the circumstances described in paragraph (2), and the court in which the proceeding is pending is a municipal or justice court, the court shall transfer further proceedings to the superior court. There shall be no filing fee imposed in the superior court upon such a transfer.

(d) Upon receipt of a complete application of a judgment creditor, the court shall set a time and place for hearing and order the debtor to show cause why a writ of execution should not issue. Prior to the hearing, a copy of the order to show cause, a copy of the

application filed by the judgment creditor and a copy of the following notice, in at least 10-point bold type, shall be served as prescribed for the giving of notice of sale of real property in Section 692:

**“IMPORTANT NOTICE TO HOMEOWNER AND RESIDENT**

1. Your house is in danger of being sold to satisfy a judgment obtained in court. You may be able to protect the house and real property described in the accompanying application from execution and forced sale if you or your family now actually reside on the property and presently do not have a declared homestead on any other property in the State of California. **YOU OR YOUR SPOUSE MUST COME TO THE HEARING TO SHOW THESE FACTS.**

2. If you or your spouse want to contest the forced sale of this property, you or your spouse must appear at \_\_\_\_\_

(location set forth in

\_\_\_\_\_ on \_\_\_\_\_ and be prepared to answer questions OSC) (date and time)

concerning the statements made in the attached application. **THE ONLY PURPOSE OF THE HEARING WILL BE TO DETERMINE WHETHER THE PROPERTY CAN BE SOLD, NOT WHETHER YOU OWE THE MONEY.**

**3. FOR YOUR OWN PROTECTION, YOU SHOULD PROMPTLY SEEK THE ADVICE OF AN ATTORNEY IN THIS MATTER.”**

(e) The burden of proof at the hearing shall be determined in the following manner:

(1) Where the application of the judgment creditor states a claim of nonexempt status, the debtor or the spouse of the debtor shall have the burden of proving his or her entitlement to the exemption; and

(2) Where the application of the judgment creditor asserts that the current value of the dwelling, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption, the judgment creditor shall have the burden of proof on that issue.

(f) Upon a determination by the court that the dwelling house is not exempt or that, although exempt, the judgment creditor is entitled to levy against any excess, it shall make an order directing the issuance of a writ of execution. The order shall state whether or not the dwelling house is exempt and, if not exempt, state that the judgment creditor is entitled only to execution against the excess over the exempt amount. It shall also specify the amount of the exemption.

(g) Any such writ of execution issued upon a hearing at which the debtor, the spouse of the debtor, or his or her attorney did not appear shall be served in the manner prescribed for the giving of notice of

sale of real property in Section 692 and be accompanied by the following notice in at least 10-point bold type:

**“IMPORTANT NOTICE TO HOMEOWNER AND RESIDENT**

1. You were recently served with a court order requiring your presence at a hearing to determine why the court should not issue a writ of execution for the forced sale of your home. **YOU AND YOUR SPOUSE FAILED TO APPEAR AT THE HEARING AND THE COURT HAS ORDERED THAT YOUR HOME BE SOLD TO SATISFY A JUDGMENT AGAINST YOU.”**

2. Your absence at the hearing has contributed to the issuance of the accompanying writ of execution. If the absence of you or your attorney at the hearing was legally excusable and you believe in good faith that your home may be entitled to an exemption from execution, you should complete the form below and date, sign, and return the form below no later than \_\_\_\_\_. (Insert date no later than five days prior to date of sale.)

**3. FOR YOUR OWN PROTECTION, YOU SHOULD IMMEDIATELY SEEK THE ADVICE OF AN ATTORNEY.**

..... (Cut Out and Return This Form to).....  
\_\_\_\_\_ (Name and Title of Levying Officer)  
\_\_\_\_\_ (Street Address and City)  
\_\_\_\_\_ (Area Code and Telephone Number  
of Levying Officer)

I declare that my absence from the previous hearing on whether or not this property should be sold was legally excusable. I, or my spouse, currently reside in this property and I wish a further hearing so that I may assert my exemption rights under Code of Civil Procedure Section 690.31 and contest the sale of my home. I understand that the clerk of the court will notify me of the date and place for this hearing if I return this form immediately and that I must attend this hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.

\_\_\_\_\_  
Signature of Debtor or Debtor’s Spouse

(h) If the debtor or spouse of the debtor declares that his or her absence or the absence of his or her attorney at the hearing was due to mistake, inadvertence, surprise or excusable neglect and declares that the subject dwelling house may be entitled to an exempt status, the levying officer shall, upon receipt of the declarations of the debtor five days prior to the scheduled sale date, cancel the sale pending further orders of the court and transmit the notice forthwith to the court. Upon receipt of the notice, the clerk shall set a hearing to determine whether the writ of execution should be recalled, and

shall give at least 10 days notice to the parties.

(i) Subsequent applications by a judgment creditor within 12 months of a denial of a writ of execution shall be supported by a statement under oath alleging that there is a material change of circumstances affecting the exemption, and setting forth facts supporting such claimed material change of circumstances.

(j) In the event of an execution sale, the proceeds of the sale shall be applied in the following order and priority: first, to the discharge of all liens and encumbrances, if any, on the property; second, to the debtor, or the debtor's spouse if such person is the exemption claimant, in the amount of the exemption provided by this section; third, to the satisfaction of the execution; and fourth, to the debtor, or the debtor's spouse if such person is the exemption claimant.

(k) That portion of the proceeds from the sale of real property pursuant to an order of the court directing the issuance of a writ of execution pursuant to subdivision (g) of this section, which portion represents the amount of the exemption, shall be exempt for a period of six months from the date of receipt of the proceeds. Where such exempt proceeds are used for the purchase of a dwelling house, in which the debtor or the family of the debtor actually reside, within a period of six months following receipt, the subsequently acquired dwelling shall be exempt from execution and for the purposes of subparagraphs (i) and (ii) of paragraph (2) of subdivision (b). The exemption for the subsequently acquired real property shall have the same effect as if allowed on the date of the acquisition of or the commencement of residence by the debtor or the spouse of the debtor, whichever last occurred, in the property previously determined to be exempt, except with respect to a judgment or other obligation which by statute is given the force and effect of a judgment lien against the subsequently acquired property prior to its acquisition.

SEC. 5. Nothing in this act shall be construed to alter, change, or modify the rights of any lienholder or encumbrancer vested prior to July 1, 1977, or the operative date of Chapter 1251 of the Statutes of 1974.

SEC. 6. This act shall become operative on July 1, 1977.

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## CHAPTER 1001

An act to amend Section 21150.1 of the Business and Professions Code, relating to franchises.

[Approved by Governor September 16, 1976 Filed with  
Secretary of State September 17, 1976.]

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

SECTION 1. Section 21150.1 of the Business and Professions Code is amended to read:

21150.1. In all future franchise agreements no retail gasoline dealer who operates pursuant to a franchise shall be precluded by the franchisor from establishing his own hours of business or operation beyond the hour of 10 p.m. and prior to 6 a.m.

This section shall not apply:

(1) Where different hours of business or operation are required under the franchisor's prime lease or license from any governmental entity, airport, parking, marine or port authority, shopping center, or any private investor not affiliated with or controlled by the franchisor; or,

(2) Where the retail gasoline station subject to the franchise agreement is located within one-half mile access of any highway which is a part of the California freeway and expressway system, provided, however, that if there is not commercial property developed as a service station within one-half mile of an entry to or exit from any such highway, the exception shall extend to the first such development and extend one-quarter mile beyond in all directions. This section is also not applicable to any business which is not primarily a gasoline station, but which sells gasoline incidentally to its business.

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## CHAPTER 1002

An act to amend Section 17508 of the Business and Professions Code, relating to false advertising.

[Approved by Governor September 16, 1976. Filed with Secretary of State September 17, 1976.]

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

SECTION 1. Section 17508 of the Business and Professions Code is amended to read:

17508. (a) It shall be unlawful for any person doing business in California and advertising to consumers in California to make false advertising claims that (1) purport to be based on factual, objective, or clinical evidence, or that (2) compare the product's effectiveness or safety to that of other brands or products.

(b) Upon written request of the Director of Consumer Affairs, the Attorney General, any city attorney, or any district attorney any person doing business in California and in whose behalf advertising claims are made to consumers in California that (1) purport to be based on factual, objective, or clinical evidence, or that (2) compare

the product's effectiveness or safety to that of other brands or products, shall provide to the department or official making the request evidence of the facts on which such advertising claims are based. Any such request shall be made within one year of the last day on which such advertising claims were made.

Any city attorney or district attorney who makes a request pursuant to this subdivision shall give prior notice of such request to the Attorney General.

(c) The Director of Consumer Affairs, Attorney General, any city attorney, or any district attorney may, upon failure of an advertiser to respond within a reasonable time, or if such Director of Consumer Affairs, Attorney General, city attorney, or district attorney shall have reason to believe that any such advertising claim is false, seek an immediate termination or modification of the claim by the person in accordance with Section 17535 and may disseminate information, taking due care to protect legitimate trade secrets, concerning the veracity of such claims to the consumers of this state.

(d) The relief provided for in subdivision (c) is in addition to any other relief which may be sought for a violation of this chapter. Section 17534 shall not apply to violations of this section.

(e) Nothing in this section shall be construed to hold any newspaper publisher or radio or television broadcaster liable for publishing or broadcasting any advertising claims referred to in subdivision (a), unless such publisher or broadcaster is the person making such claims.

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## CHAPTER 1003

An act to amend Sections 9222, 9400, 9402, 9404, and 9461 of the Education Code, relating to instructional materials.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976 ]

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

SECTION 1. Section 9222 of the Education Code is amended to read:

9222. "Instructional materials system" means a comprehensive collection of related instructional materials which are designed to improve learning in one or more subjects and are so designed that all parts of the system should be used to produce the results intended.

SEC. 2. Section 9400 of the Education Code is amended to read:

9400. The state board shall biennially adopt a list of textbooks and instructional materials for use in the elementary school grades subject to the following provisions:

(a) The state board shall adopt not less than five but not more than 15 of any of the following, per subject, per grade: (1) instructional materials, (2) instructional materials systems, (3) instructional materials sets, (4) a combination of instructional materials, instructional materials systems, and instructional materials sets. The state board may designate each instructional material, instructional material system, instructional material set, or any combination thereof, as basic or supplementary. The state board shall not adopt more than two instructional materials sets per subject.

(b) Fewer than five instructional materials, instructional materials systems, and instructional materials sets may be adopted per subject, per grade if publishers and manufacturers of instructional materials do not submit a sufficient number of educationally useful materials or systems, as determined by the state board; however, in no event shall the state board adopt less than two instructional materials systems per subject, per grade.

(c) In the event that a district board establishes to the satisfaction of the state board that the adoption of basic instructional materials does not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district board to use its instructional materials credit to purchase, through the Department of Education, additional instructional materials specified by the state board in accordance with standards and procedures established by the state board.

(d) The state board shall biennially adopt lists of instructional materials for the following subjects: (1) language arts, (2) arithmetic, (3) social sciences, (4) reading, (5) science, and (6) any other subject in which the board shall determine the need and desirability for instructional materials to promote the maximum efficiency of pupil learning. The state board may establish a cycle for adoptions by designating subjects to be adopted in even-numbered years and subjects to be adopted in odd-numbered years.

(e) The state board shall, at the time of the adoption, determine the date upon which state-adopted instructional materials shall be available for use by district boards.

(f) The state board may adopt instructional materials, instructional materials systems, and instructional materials-sets without designating a grade or subject and the state board may designate more than one grade or subject whenever the state board determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on a single grade or single subject list or may be placed on separate lists including other materials with similar grade or subject designations; however, all materials so designated shall be adopted subject to the numerical limitations of subdivision (a).

SEC. 3. Section 9402 of the Education Code is amended to read: 9402. Before final adoption of any instructional materials not currently listed, the state board shall make any instructional materials proposed for adoption available for public inspection for not less than 30 days at display centers designated by the Superintendent of Public Instruction. There shall be an adequate distribution of display centers throughout the state.

SEC. 4. Section 9404 of the Education Code is amended to read: 9404. The commission shall:

- (a) Recommend curriculum frameworks to the state board.
- (b) Develop criteria for evaluating instructional materials submitted for adoption so that the materials adopted shall adequately cover the subjects in the indicated grade or grades and which comply with the provisions of Article 3 (commencing with Section 9240) of Chapter 1 of this division. Such criteria shall be public information and shall be provided in written or printed form to any person requesting such information.
- (c) Study and evaluate instructional materials submitted for adoption.
- (d) Recommend to the state board instructional materials which it approves for adoption.

SEC. 5. Section 9461 of the Education Code is amended to read: 9461. District boards shall determine the necessary quantities and distribution pattern of instructional materials to pupils. No minimum order or ratio of materials shall be required, except that each district board shall provide sufficient quantities of state-adopted textbooks and instructional materials to meet the needs of their pupils and the requirements of Section 7.5 of Article IX of the California Constitution.

SEC. 6. Section 2 of this act shall not become operative if Senate Bill No. 1972 is enacted at the 1975-76 Regular Session of the Legislature.

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## CHAPTER 1004

An act to add Article 5 (commencing with Section 12590) to Chapter 6 of Title 2 of Part 4 of the Penal Code, relating to peace officers.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976 ]

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

SECTION 1. Article 5 (commencing with Section 12590) is

added to Chapter 6 of Title 2 of Part 4 of the Penal Code, to read:

### Article 5. Picketing

12590. (a) Any person who does any of the following acts while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor:

(1) Carries concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries a loaded firearm upon his person or within any vehicle which is under his control or direction.

(3) Carries a deadly weapon, as defined in subdivision (f) of Section 3024.

(4) Wears the uniform of a peace officer, whether or not the person is a peace officer.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

(c) Section 12027 shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a) of this section, nor shall subdivision (b) of Section 12031 be construed to authorize any conduct described in paragraph (2) of subdivision (a) of this section.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

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## CHAPTER 1005

An act to amend Section 3369 of the Civil Code, relating to judicial relief.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976.]

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

SECTION 1. Section 3369 of the Civil Code is amended to read:  
3369. 1. Neither specific nor preventive relief can be granted to

enforce a penalty or forfeiture in any case, nor to enforce a penal law, except in a case of nuisance or unfair competition.

2. Any person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this section, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

3. As used in this section, unfair competition shall mean and include unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising and any act denounced by Business and Professions Code Sections 17500 to 17535, inclusive.

4. As used in this section, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

5. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney or any city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

6. Unless otherwise expressly provided, the remedies or penalties provided by this section and Section 3370.1 are cumulative to each other and to the remedies or penalties available under all other laws of this state.

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## CHAPTER 1006

An act to add Section 3370.2 to the Civil Code, relating to injunctions.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976 ]

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

SECTION 1. Section 3370.2 is added to the Civil Code, to read:  
3370.2. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 3369 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000)

for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, or any city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

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## CHAPTER 1007

An act to add Section 64591.1 to the Food and Agricultural Code, relating to livestock.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976.]

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

SECTION 1. Section 64591.1 is added to the Food and Agricultural Code, to read:

64591.1. Notwithstanding other provisions of this article, the director shall, with or without nominations, appoint one member and one alternate member to the council to represent the general public,

in addition to the 20 members of the council otherwise provided for. Such persons shall not be affiliated in any way with the production or marketing of beef and shall have all of the rights and privileges, including voting, of any other member or alternate member of the council. The regular term of office of any member or respective alternate member appointed pursuant to this section shall be as close as possible to three full years and shall terminate on December 31 of the year which will provide for more than two but not more than three full years in office.

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## CHAPTER 1008

An act to amend Section 16755 of the Business and Professions Code, relating to restraints of trade.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976.]

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

**SECTION 1.** Section 16755 of the Business and Professions Code is amended to read:

16755. (a) Any violation of this chapter is a conspiracy against trade, and any person who engages in any such conspiracy or takes part therein, or aids or advises in its commission, or who as principal, manager, director, agent, servant or employee, or in any other capacity, knowingly carries out any of the stipulations, purposes, prices, rates, or furnishes any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, is punishable by a fine of not more than one million dollars (\$1,000,000) if a corporation, or one hundred thousand dollars (\$100,000) if an individual, or by imprisonment in a state prison for not more than three years, or by imprisonment for not more than one year in a county jail, or by both such fine and imprisonment.

(b) Any action pursuant to this section may be commenced at any time within three years after the commission of the last act comprising a part of any violation.

(c) Subject to the provisions of Section 13521 of the Penal Code, all moneys received by any court in payment of any fine or civil penalty imposed pursuant to this section shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which such court is situated. Amounts so deposited shall be paid as soon as practicable as follows: 100 percent to the State Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of said court to be deposited in the

State Treasury on order of the State Controller if such moneys received resulted from an action initiated and prosecuted by the Attorney General. If such action was initiated and prosecuted by a district attorney then 100 percent shall be paid as soon as practicable to the treasurer of the county in which the prosecution is conducted. If such action was initiated and prosecuted jointly by the Attorney General and a district attorney or jointly by more than one district attorney, such amounts shall be paid to the State Treasurer and to the treasurer(s) of the county or counties in which the prosecution is conducted in a proportion agreed upon by the agencies jointly prosecuting such case and as approved by the court.

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## CHAPTER 1009

An act to amend Sections 980, 980.5, and 981 of the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976.]

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

**SECTION 1.** Section 980 of the Unemployment Insurance Code is amended to read:

**980.** (a) In determining the balance in the Unemployment Fund for the purpose of Section 977 or 978 there shall be excluded:

(1) Any amount credited to this state's account in the Unemployment Trust Fund pursuant to Section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration other than for capital assets, whether or not such amount has been withdrawn from such fund.

(2) Any unexpended advance from the federal unemployment account in the Unemployment Trust Fund received in accordance with Section 323 of this division and Title XII of the Social Security Act as amended.

(3) Any amount paid in advance into the Unemployment Fund by an employer under any type of coverage pursuant to which reimbursement of benefits is permitted or required in lieu of the contributions required of employers.

(4) Any amount paid in advance into the Unemployment Fund by the federal government under the provisions of any federal law that requires or permits this state to pay benefits from the Unemployment Fund and provides for advances by the federal government for reimbursement of all or part of such benefits.

(b) In determining the balance in the Unemployment Fund for the purpose of Section 977 or 978, there shall also be excluded any estimated or other contributions not legally due and payable with respect to the final calendar quarter of the calendar year, except any payment of contributions made under Section 1137 and except any payment of contributions by employers terminating business during any calendar quarter.

SEC. 2. Section 980.5 of the Unemployment Insurance Code is amended to read:

980.5. In determining the balance in the Unemployment Fund for the purpose of Section 977 or 978 there shall be included:

(a) The unreimbursed balance of all benefits paid from the Unemployment Fund to claimants when such benefits are based upon wages in employment under any type of coverage pursuant to which reimbursement of benefits is permitted or required in lieu of the contributions required of employers, whether or not the director has certified such benefits to the employer as due or payable.

(b) The unreimbursed balance of all benefits paid from the Unemployment Fund to claimants when and to the extent that such benefits are subject to reimbursement by the federal government under the provisions of any federal law that requires or permits this state to pay benefits from the Unemployment Fund and provides for reimbursement by the federal government of all or part of such benefits.

SEC. 3. Section 981 of the Unemployment Insurance Code is amended to read:

981. In determining wages in employment, for the purpose of Section 977 or 978, there shall be excluded all wages paid in employment under any type of coverage pursuant to which reimbursement of benefits is permitted or required in lieu of the contributions required of employers.

SEC. 4. The sum of forty-one thousand dollars (\$41,000) is appropriated from the General Fund to the State Controller, to be expended only for reimbursement to local governments for payments to classified school employees made pursuant to changing the unemployment compensation rates in accordance with Section 2231 of the Revenue and Taxation Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the Department of Benefit Payments to complete reimbursement to local governments for payments to classified school employees made pursuant to Chapter 1256, Statutes of 1975, a deficiency appropriation of forty-one thousand dollars (\$41,000) is necessary.

## CHAPTER 1010\*

An act to repeal and reenact the Education Code, relating to education law.

[Approved by Governor September 16, 1976. Filed with Secretary of State September 16, 1976.]

Note: The Education Code consists of this chapter as originally enacted, and also contains the amendments to the code made by Chapter 1011.

Chapters 1010 and 1011 are both *effective* January 1, 1977. However, the provisions of Chapter 1010 are not *operative* until April 1, 1977.

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

SECTION 1. The Education Code is repealed.

SEC. 2. The Education Code is enacted, to read:

TITLE 1. GENERAL EDUCATION CODE PROVISIONS

DIVISION 1. GENERAL EDUCATION CODE PROVISIONS

PART 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Construction of Provisions

1. This code shall be known as the Education Code.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

1. This act shall be known as the Education Code.

2. The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.

3. The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

4. Whenever reference is made to any portion of this code or of any other law of this state, such reference applies to all amendments and additions now or hereafter made.

5. Title, division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

6. If any provision of this code, or the application thereof to any

\* A cross-reference table showing the origin of each section appears in the appendix to the 1976 Statutes

person or circumstances is held invalid, the remainder of the code, and the application of such provision to other persons or circumstances, shall not be affected thereby.

7. Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

8. Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it is otherwise expressed in the provisions of the code giving the authority.

9. The time in which any act provided by this code is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.

10. Unless the provisions or the context otherwise requires these general provisions, rules of construction, and definitions shall govern the construction of this code.

## Article 2. Continuation of Rights and Duties

20. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code shall continue to hold them according to their former tenure.

21. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

22. No rights given by any license or certificate under any act repealed by this code are affected by the enactment of this code or by such repeal, but such rights shall hereafter be exercised according to the provisions of this code.

23. All persons who, at the time this code goes into effect, are entitled to a certificate or credential under any act repealed by this code, are thereby entitled to a certificate or credential under the provisions of this code so far as the provisions of this code are applicable.

## Article 3. Language of Instruction

30. English shall be the basic language of instruction in all schools.

The governing board of any school district, or community college district, and any private school may determine when and under what circumstances instruction may be given bilingually.

It is the policy of the state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered in those situations when such instruction is educationally advantageous to the pupils. Bilingual instruction is authorized to the

extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language.

Pupils who are proficient in English and who, by successful completion of advanced courses in a foreign language or by other means, have become fluent in that language may be instructed in classes conducted in that foreign language.

#### Article 4. Equal Opportunity Without Regard to Sex of the Student

40. (a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the student enrolled in such classes and courses.

(b) No school district or community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student, except a class subject to Section 51550.

(c) No school district or community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

41. (a) The Legislature finds and declares that female students are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female students.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district or community college governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district or community college to require competition between male and female students in school-sponsored athletic programs.

### Article 5. General Provisions, Public Schools

50. The public schools other than those supported exclusively by the state, are day and evening elementary, and day and evening secondary schools.

51. Secondary schools may be established and maintained pursuant to this code.

52. The secondary schools of the state are designated as high schools, technical schools, adult schools, and community colleges.

53. The high schools of the state are designated as four-year high schools, junior high schools, senior high schools, continuation high schools, and evening high schools. Evening high schools may be designated as adult schools.

### Article 6. Administration and Certification of Oaths

60. The Superintendent of Public Instruction, Deputy and Assistant Superintendents of Public Instruction, secretary of the Superintendent of Public Instruction, members of the Board of Governors of the California Community Colleges, the Chancellor of the California Community Colleges, county superintendents of schools, school trustees, members of boards of education, secretaries and assistant secretaries of boards of education, city superintendents of schools, district superintendents of schools, assistant superintendents of schools, deputy superintendents of schools, principals of schools, and every other officer charged with the performance of duties under the provisions of this code may administer and certify oaths relating to officers or official matters concerning public schools.

### Article 7. Definitions

70. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Wherever any notice or other communication is required by this code to be mailed by registered mail by or to any person or corporation, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of law.

71. "Section" means a section of this code unless some other statute is specifically mentioned.

72. The present tense includes the past and future tenses, and the future, the present.

73. The masculine gender includes the feminine.

74. The singular number includes the plural, and the plural, the singular.

75. "Shall" is mandatory and "may" is permissive.

76. "Oath" includes affirmation.

77. "State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

78. "Governing board" means board of school trustees, community college board of trustees, and city, and city and county board of education.

79. "City superintendent of schools" includes the superintendent of schools of a district lying wholly or partly within a city and county.

80. "Any school district" and "all school districts" mean school districts of every kind or class, except a community college district.

81. "Union school district" means a district composed of two or more school districts situated in the same county.

82. "Joint union school district" means a district composed of two or more school districts situated wholly or in part in different counties.

83. A unified school district means a district maintaining grades kindergarten or 1 through 12. A unified district may comprise territory in more than one county.

84. "City school district" includes a school district lying wholly or partly within a city and county.

85. Whenever "high school district" is used in this code, unless a contrary intent appears, it includes union high school districts, joint union high school districts, and county high school districts.

86. A high school district, other than a city high school district, comprising two or more elementary school districts lying wholly in the same county is a union high school district, and such designation shall be part of its name.

87. A school district lying in more than one county is a joint school district.

88. Whenever used in this code, in specifying or defining the rights of employees of school districts who are absent from their duties as employees of the district while in the active military service of the United States of America or of the State of California, or while assigned to duty with the military forces of the United States of America or of the State of California in the full-time paid service of the American Red Cross, the word "war" shall mean: (a) whenever Congress has declared war and peace has not been formally restored; (b) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to restore international peace and security.

89. The word "department" whenever used in this code, unless the context otherwise requires, means the Department of Education.

90. With respect to the personnel of school districts and other educational agencies, the terms "certificated" and "certified" have the same meaning.

91. Any reference to junior colleges or junior college districts in any law shall be deemed to refer to community colleges and community college districts, respectively.

92. "County" or "counties" as used in Sections 2300, 12300 to 12307, inclusive, 41000 to 41964, inclusive, 42100 to 42128, inclusive, 46000 to 46392, inclusive, 76300 to 76342, inclusive, 84000 to 84874, inclusive, and 85000 to 85443, inclusive, whichever are in effect, includes a city and county.

## PART 2. COUNTY EDUCATIONAL AGENCIES

### CHAPTER 1. COUNTY BOARDS OF EDUCATION

#### Article 1. Election, Jurisdiction, Organization and Procedure

1000. Except in a city and county, there shall be a county board of education, which shall consist of five or seven members to be determined by the county committee on school district organization. Each member of the board shall be an elector of the trustee area which he represents and shall be elected by the electors of the trustee area. In chartered counties the manner of selection of the county board of education shall be prescribed in the county charter, or by the county board of supervisors. In a county unified school district or in a unified or elementary school district which includes all of the territory over which a county superintendent of schools has jurisdiction, the governing board of the district shall serve as the county board of education.

1001. (a) In those counties where the county superintendent of schools has jurisdiction over a school district situated in two or more counties, any qualified elector residing in the part of the school district situated in a county whose county superintendent of schools does not have jurisdiction of such school district shall be eligible to vote for one or more members of the county board of education of the county whose county superintendent of schools has jurisdiction over the school district. Each such elector shall be eligible to vote for the member of the county board of education representing the trustee area of such county having jurisdiction as designated by the county committee on school district organization. Such committee shall apportion the portion of the school district territory not situated in the county having jurisdiction to one or more trustee areas of the other county so that such territory shall, insofar as possible, be represented as if it were situated in the county having jurisdiction. The territory so apportioned shall not become a part of the trustee area to which apportioned for any other purpose. As used in this subdivision, "school district" means any joint union elementary school district, joint union high school district or joint unified school district but does not include any community college district.

(b) Any person who is a resident of a county and is made eligible to vote for the county board of education of another county pursuant

to subdivision (a) shall not be eligible to vote for the county board of education of the county of which he is a resident. Notwithstanding the foregoing provisions of this subdivision, a person shall be eligible to vote for both county boards of education if he is a resident or an elementary school district of any type which is included in a joint union high school district and the elementary school district and the joint union high school district are each under the jurisdiction of different county superintendents of schools.

This section shall not be applicable in a chartered county unless made so by the charter, or by the board of supervisors acting pursuant to the charter.

1002. Upon being so requested by the county board of education, the county committee on school district organization, by a two-thirds vote of the members, may either change the boundaries of any or all of the trustee areas of the county, or propose to increase or decrease the number of members of the county board of education, or both. The trustee areas shall be as nearly equal in population as may be, except that in establishing or changing the boundaries of the trustee areas the county committee may give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, continuity, integrity, and compactness of territory, and (d) community of interests of the trustee areas. In any event, the county committee shall insure that such areas are as nearly equal in population as practicable. Changes in trustee area boundaries or a proposed reduction in the number of county board of education members shall be made in writing and filed with the county board of supervisors not later than the first day of March of any school year.

In those counties in which the election of members of county boards of education are required to be held on the same date as prescribed for the election of members of governing boards of school districts, as provided in Section 1007, the county committees on school district organization shall fix the boundaries of trustee areas, insofar as possible, to coincide with the boundaries of school districts.

Whenever the boundaries of trustee areas are changed so as to be coterminous with those of supervisorial districts of the county, the election for members of the county board of education shall be consolidated with the countywide election.

1003. When a county committee on school district organization proposes to reduce from seven to five or increase from five to seven the number of members of the county board of education, the county committee shall call and conduct a hearing on the matter. At the conclusion of the hearing, the county committee shall, by resolution, approve or disapprove the proposal.

1004. The resolution of the county committee approving a reduction or increase in the number of members of the county board of education shall constitute an order of election, and the proposal shall be presented to the electors of the county not later than the next succeeding election for members of the county board of education. The ballot shall contain the following words, as appropriate:

“For decreasing (increasing) the number of members of the county board of education from seven (five) to five (seven)—Yes”

“For decreasing (increasing) the number of members of the county board of education from seven (five) to five (seven)—No”

1005. The boundaries of any trustee area shall not at any time be changed so as to affect the term of office of any member of the county board of education who has been elected and whose term of office has not expired.

1006. Any registered voter is eligible to be a member of the county board of education except the county superintendent of schools, any member of his staff, or any employee of a school district.

1007. Members of the county board of education shall be elected on the date and in the manner prescribed for the election of members of governing boards of school districts, provided such elections are held throughout the county on the same date; otherwise the election shall be consolidated with the direct primary election. Once established, no subsequent change of circumstances shall require that the time of holding the election be changed. Where the elections for governing board members are held on the same date, then the provisions of Section 5303 of this code shall apply to the election of members of the county board of education. The first election held under this article shall be conducted by the county board of supervisors and thereafter by the county board of education. Members elected at the time of the direct primary shall take office on the first day of July, and members elected at the date on which members of school district governing boards are elected shall take office on the first day of April, subsequent to their election and shall serve for a term to be determined for each county by the county committee on school district organization. The county committee on school district organization shall also determine the manner in which the county board of education first elected shall effect a staggering of terms.

1008. When any vacancy exists on the county board of education of any county and the term in which the vacancy occurs has 12 months or less remaining until its completion, the vacancy shall be filled by the majority of the remaining members of the board for the duration of the unexpired term. In all other cases, the county superintendent of schools having jurisdiction shall call a special election within the county at which election the vacancy shall be filled.

The special election shall be consolidated with the next countywide election, or the next municipal election if the vacancy to be filled is that of a member representing such municipality, if (a) the vacancy occurs within six months of the next regularly scheduled countywide election or municipal election, as the case may be, (b) a quorum of the board still exists, and (c) the board requests the county superintendent of schools to consolidate the special election with the next regularly scheduled countywide election or municipal

election, as the case may be.

Any person elected shall fill out the unexpired term to which he was elected.

A special election shall be held and conducted in as nearly the same manner as is practicable as are elections of members of the county board of education.

If a request is made for a consolidation of the special election with the next regularly scheduled countywide election or municipal election and a vacancy would continue for three months or more until the next regularly scheduled countywide election or municipal election, the vacancy shall temporarily be filled by the majority of the remaining members of the board. The appointee shall hold office only until the next regularly scheduled countywide election or municipal election, as the case may be.

1009. The county board of education shall organize at a meeting held in each year by electing one of their number president of the board. The meeting at which the organization is conducted shall be either the first meeting on or after the first day of April, or the first meeting on or after the first day of July, depending upon whether, pursuant to Section 1007, the terms of office of board members commence on the first day of April or the first day of July.

1010. The county superintendent of schools is ex officio secretary and executive officer of the board.

1011. Regular meetings of the board shall be held at such time as it may determine, but not less than once per month.

1012. Special meetings may be called by the president whenever, in his judgment, the exigencies of the schools require them to be held. Upon the request of any three members, in writing, the president shall call a special meeting.

1013. A majority of the members shall constitute a quorum for the transaction of business.

1014. No teacher's certificate shall be issued or renewed, nor shall any books or apparatus be adopted except by an affirmative vote of at least a majority of the members of the board.

1015. On the call of any member, the ayes and nays shall be taken upon any proposition, and the vote shall be recorded in the minutes of the board.

1016. At special meetings, no business shall be transacted other than such as may be specified in the call of the president, except that certificates to teach, upon credentials, may be granted, and unexpired certificates to teach may be renewed at any meeting of the board.

1017. In those counties in which the election of members of county boards of education are required to be held on the same date as prescribed for the election of members of governing boards of school districts, as provided in Section 1007, the offices of those members of the county board of education whose terms have been fixed to expire in even-numbered years shall become vacant upon the expiration of those terms. The vacancies arising shall be filled by

the majority of the remaining members of the board, and the appointees shall hold office only until the first day of July following the election of their successors.

## Article 2. Duties and Responsibilities

1040. County boards of education shall:

(a) Adopt rules and regulations not inconsistent with the laws of this state, for their own government.

(b) Keep a record of their proceedings.

(c) Approve the annual budget of the county superintendent of schools before its submission to the county board of supervisors.

(d) Approve the annual county school service fund budget of the county superintendent of schools before its submission to the Superintendent of Public Instruction.

1041. County boards of education may:

(a) Adopt and use an official seal in authentication of their acts.

(b) Have such printing done as may be necessary.

1042. County boards of education may:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before such annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code and make such revisions, reductions or additions therein that it deems advisable and proper. No such itemized estimate shall be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the board of education is designated, acquire, hold and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to such county boards of education to which all the duties and functions of the county board of supervisors have been transferred pursuant to Section 1080.

1043. Upon the adoption of a resolution by the board of supervisors of the county consenting to the transfer of the functions specified in the sections set forth below in this section, the functions specified in such section shall be transferred from the county board of supervisors to the county board of education. The functions, including but not limited to the receipt of petition and reports and other papers, are those specified in Sections 4025, 4060, 4065, 4083, 4417, 35001, 35002, 35676, 35698, 35699, 35703, 35704, 35705, 35722, 35723, 35724, 72002, 74526, 74638, 74639, 74643, 74644, 74645, 74671, 74672, and 74673.

Upon the adoption of such resolution, any reference, with respect to that county, in such sections to the board of supervisors shall be deemed to be a reference to the county board of education of that

county and any reference to the clerk of the county board of supervisors shall be deemed to be a reference to the secretary of the county board of education of that county.

1044. Any county board of education may secure copyrights, in the name of the board, to all copyrightable works developed by the board, and royalties or revenue from such copyrights are to be for the benefit of the board securing such copyrights.

1045. Any county board of education may, in accordance with regulations adopted by the board and for educational use, sell, give, or exchange for similar published materials, published materials prepared by the board in connection with the curricular and special services that the board is authorized to perform. Unless restricted by the regulations of the board, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published material in accordance with this section is declared to be a public purpose and in furtherance of Section 1 of Article IX of the California Constitution.

Any county board of education may also license the use of copyrights held by the board, to the same persons or entities and for the same purposes as provided in the prior paragraph.

The board shall grant such a license to any public agency organized under the authority of this state, unless an exclusive license has previously been granted a private publisher.

Any charge which may be assessed such a public agency for the license to use the copyright or for materials, to which the board holds the copyright, shall not exceed the cost to the board of the preparation and reproduction of the materials.

Any granting of a license, by a county board of education, to reproduce copyrighted material is declared to be for a public purpose in furtherance of Section 1 of Article IX of the California Constitution.

1046. The county board of education in any county required to provide for the education and training of handicapped persons residing in the county, when in its judgment necessity therefor exists, may construct and maintain dormitories for use and occupancy by such persons, and shall fix the rates to be charged such persons, or parents or guardians of such persons, for quarters in the dormitories.

### Article 3. Transfer of Duties and Functions to County Board of Education

1080. The county board of supervisors, by resolution, may transfer all of the following duties and functions of the county board of supervisors to the county board of education:

(a) Approval of the county superintendent's estimate of anticipated revenue and expenditures pursuant to Section 1042 following which it shall be filed with the county board of supervisors.

(b) Allowance of the actual and necessary travel expenses, the

expenses of the office of the county superintendent of schools, and the expenses of providing housing for all the services of the county superintendent of schools pursuant to Sections 1200, 1201, 1202, and 1203.

(c) By agreement with the county board of education, any other duties and functions of an educational, or educational and recreational, nature which by law are required or permitted to be performed by the county board of supervisors.

(d) By agreement with the county board of education, in addition to the functions specified in Section 1043, any duties and functions relative to the organization or reorganization of school districts and community college districts.

(e) By agreement with the county board of education, the community recreation functions authorized by Chapter 10 (commencing with Section 10900) of Part 7 of this division.

The transfer of duties and functions under the provisions of this article shall not alter the requirement that the expenses for such duties and functions be paid out of the county general fund as provided elsewhere in this code, provided however that the county board of supervisors and the county board of education may agree that all or any portion of the expenses for such duties and functions which are by law required or permitted to be paid from the county general fund shall be included in that part of the single budget prepared by the county board of education for which a county tax is levied pursuant to Section 1623.

1081. Upon the transfer of duties and functions to the county board of education pursuant to Section 1080, the county superintendent of schools may, with the approval of the county board of education, pay actual and necessary travel expenses incurred by the county superintendent of schools or by his designated staff members in accordance with regulations established by the county board of education. The board may authorize an advance of funds to cover such necessary traveling expenses. Such advance shall be repaid or adjusted upon the filing of a regular claim for the actual and necessary traveling expenses incurred.

1082. A county board of education to which functions and duties under this article have been transferred may enter into agreements for the acquisition of real property or improvements as authorized by the County Employees Retirement Law of 1937.

#### Article 4. Salaries and Expenses

1090. The board of supervisors may allow to each member of the county board of education as compensation not less than ten dollars (\$10) nor more than forty dollars (\$40) for each meeting of the board actually attended; provided, that compensation shall not be allowed for more than three meetings in any calendar month. The amount shall be determined by the county board of supervisors or, in a county having a fiscally independent county board of education, by

the county board of education. There may also be allowed to each member who uses a privately owned automobile in the discharge of necessary official duties as a member of the county board of education the same amount as allowed any county official in the performance of his official duties. The mileage rates allowed in this section should be based on the total mileage claimed in a calendar month.

1091. If the members of the board of supervisors of any county are not allowed mileage, the board of supervisors of the county shall allow to each member of the county board of education of that county actual and necessary traveling expenses not exceeding twenty-five cents (\$.25) per mile one way in attending the meetings of the board.

1092. The secretary may be allowed the sum of ten dollars (\$10) per day for the actual time that the board may be in session.

1093. Compensation of the members of the board, shall be payable out of the county general fund.

1094. Expenses for printing required by the county board of education, and all incidental expenses incurred for stationery or other purposes in the performance of its duties, shall be audited and paid as other claims against the general fund of the county are paid.

1095. The county board of education may subscribe for membership in, or otherwise become a member of, any state or local organization of governing boards of school districts or members thereof, or of county boards of education or members thereof, or both, which has for its primary purpose the promotion and advancement of public education through research and investigation, and the cooperation with persons and associations whose interests and purposes are the betterment of the educational opportunities of the children of the state. The costs incurred for the purposes of this section shall be payable out of the county general fund.

1096. The county board of education of each county may select a member or members of the board to attend meetings of any society, association, or organization for which the board has subscribed for membership, or any convention to which the governing board of a school district or a community college district may pay the expenses of any employee. The actual expenses of the member or members shall be allowed and paid out of the county general fund with prior budgetary approval.

1097. Whenever a tax rate or portion thereof is levied by any county for the support of its county board of education and superintendent of schools, the assessed valuation of all, but only such portions of elementary and unified school districts under its jurisdiction, shall be considered. The tax rate or portion thereof so computed shall be levied uniformly in all such areas, irrespective of the county in which situated. All moneys collected in surrounding counties from the levy of such tax rate or portion thereof shall be remitted by the respective county auditors to the auditor of the

county of jurisdiction and shall be deposited by him to the credit of the fund or funds from which the support of his county board of education and superintendent of schools is derived.

This section shall be applicable to a chartered county if Section 1001 is applicable to it.

#### Article 5. Reports of Disruption at Schools

1110. The county board of education of any county may establish regulations requiring the reporting of information related to crime, violence, and disruption on campuses or in programs and activities in which any school or community college is engaged. Any board may establish a uniform reporting system and may periodically require the filing of reports by any or all of the public schools of the county. Such reports may include, but need not be limited to, the reporting of murders, assaults on personnel, assaults on pupils, possession of weapons, vandalism, and arson, provided that no pupil shall be individually identified in any report. Results of reporting required by this section may be made available to the school districts, the community college districts, and to other public and private agencies for use in developing programs of delinquency or crime prevention.

### CHAPTER 2. COUNTY SUPERINTENDENTS OF SCHOOLS

#### Article 1. Appointment, Qualifications, Salary and Expenses

1200. Each county superintendent shall receive his actual and necessary traveling expenses. The expenses shall be allowed by the board of supervisors, and be paid out of the county general fund.

1201. Each county superintendent shall also receive his actual and necessary traveling expenses, when, with the approval of the board of supervisors, he attends any convention or conference to which he is called by the State Board of Education, the Superintendent of Public Instruction, or the Board of Governors of the California Community Colleges, and when the board of supervisors delegates the power to perform services outside of his county either within or without the state.

1202. The expenses of the office of superintendent of schools for its stationery, blank books, postage, expressage, freight, telephone, telegraphing, and other necessary office expenses shall be allowed by the supervisors of the county and paid out of the general fund of the county in the same manner as other claims against the county are paid.

1203. The expense of providing housing for all the services of the county superintendent of schools shall be allowed by the board of supervisors of the county and paid out of the general fund of the county.

1204. For the purposes of the retirement system of which a county superintendent of schools is a member, all contributions by or on account of the county superintendent and all benefits to him shall be based, insofar as, and to the extent that, such contributions and benefits are based upon the compensation received by him as county superintendent of schools, upon the whole of his annual salary as county superintendent of schools regardless of the fund or funds from which paid, subject only to the maximum amount of salary on which contributions can be paid the system. If such contributions are required to be paid to the system from any fund from which any part of the annual salary of the county superintendent of schools is paid, then contributions shall be paid from each of the funds from which his annual salary is actually paid in the same proportion of the total contribution as that part of his annual salary paid from such fund is of the whole of his annual salary. Contributions which would have been made by any county superintendent of schools, or by an employer on account of said superintendent, if this section had been in effect on and after September 19, 1947, shall be made in accordance with the provisions of this section.

1205. For the purposes of prescribing the qualifications required of county superintendents of schools and fixing their salaries the counties are classified on the basis of the average daily attendance in the public schools of the state in the respective counties as follows:

Class one (1) includes all counties with an average daily attendance of seven hundred fifty thousand (750,000) and over.

Class two (2) includes all counties with an average daily attendance of one hundred forty thousand (140,000) to seven hundred forty-nine thousand nine hundred ninety-nine (749,999), inclusive.

Class three (3) includes all counties with an average daily attendance of sixty thousand (60,000) to one hundred thirty-nine thousand nine hundred ninety-nine (139,999), inclusive.

Class four (4) includes all counties with an average daily attendance of thirty thousand (30,000) to fifty-nine thousand nine hundred ninety-nine (59,999), inclusive.

Class five (5) includes all counties with an average daily attendance of fifteen thousand (15,000) to twenty-nine thousand nine hundred ninety-nine (29,999), inclusive.

Class six (6) includes all counties with an average daily attendance of seven thousand (7,000) to fourteen thousand nine hundred ninety-nine (14,999), inclusive.

Class seven (7) includes all counties with an average daily attendance of one thousand (1,000) to six thousand nine hundred ninety-nine (6,999), inclusive.

Class eight (8) includes all counties with an average daily attendance of under one thousand (1,000).

1206. Except as provided in this section no person shall hereafter be elected or appointed to office as county superintendent of schools of any county who does not possess a valid credential issued by the

State Board of Education of the type designated in Sections 1205 to 1212, inclusive, for each class.

Where a county changes from one class to another because of an increase in the average daily attendance in the public schools of such county, the incumbent county superintendent of schools in that county shall not be prohibited from continuing in office and shall be eligible for reelection to the same office regardless of whether he possesses a valid credential otherwise required in a county of that class.

1207. The qualifications of the county superintendent of schools in each county shall be as set forth in Sections 1205 to 1212, inclusive, for that class into which the county falls. The class into which each county falls shall be determined on October 1st of each year based upon the average daily attendance in the public schools of such county for the preceding school year as reported to the State Department of Education. In no case will the salary of the county superintendent be lowered during his term of office.

The salaries set forth in Section 1213 are payable to incumbent county superintendents of schools; provided, however, that the salary of an incumbent shall not be reduced during the term for which he was elected or appointed or for any consecutive new term to which he is elected or appointed.

1208. All county superintendents of schools in counties within class one (1) shall possess a valid certification document authorizing administrative services.

1209. All county superintendents of schools in counties within class two (2) shall possess a valid certification document authorizing administrative services.

1210. All county superintendents of schools in counties within class three (3) shall possess a valid certification document authorizing administrative services.

1211. For the purposes of Sections 1208, 1209 and 1210, the possession of a valid elementary administrative credential and a valid secondary administrative credential are equivalent to the possession of a valid general administrative credential.

1212. All county superintendents of schools within classes 4 to 8, inclusive, shall possess a valid certification document authorizing administrative services.

1213. On the effective date of the amendment to this section adopted at the 1972 Regular Session of the Legislature, or as soon thereafter as practicable, the salaries of the county superintendents of schools shall be computed in the following manner, provided that in no event shall the salary of any county superintendent of schools exceed the salary of the Superintendent of Public Instruction as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

For each of the eight classes of counties the amount which is the statewide average of teachers' salaries shall be multiplied by the amount which is the adjustment factor for the particular class of

county, as prescribed by this section. The product so obtained shall be the salary of the county superintendent of schools for a county within that class.

The adjustment factor for each of the eight classes of counties is set forth below opposite the class of county:

(a) Class one .....	3.561
(b) Class two .....	3.092
(c) Class three.....	2.717
(d) Class four.....	2.483
(e) Class five .....	2.249
(f) Class six.....	2.013
(g) Class seven .....	1.732
(h) Class eight.....	1.357

For the purposes of this section the statewide average of teachers' salaries shall be deemed to be twelve thousand seventy-two dollars (\$12,072).

The cost of salaries of any county superintendents of schools required to be paid by this section shall be divided between the state and the respective county as follows: For counties within class one (1) the state shall pay sixty-nine percent (69%) and the county shall pay thirty-one percent (31%); in all counties within class two (2) the state shall pay sixty-nine percent (69%) and the county shall pay thirty-one percent (31%); for counties within class three (3) the state shall pay seventy-one percent (71%) and the county shall pay twenty-nine percent (29%); for counties within class four (4) the state shall pay seventy-two percent (72%) and the county shall pay twenty-eight percent (28%); for counties within class five (5) the state shall pay seventy-four percent (74%) and the county shall pay twenty-six percent (26%); for counties within class six (6) the state shall pay eighty-one percent (81%) and the county shall pay nineteen percent (19%); for counties within class seven (7) the state shall pay eighty-eight percent (88%) and the county shall pay twelve percent (12%); for counties within class eight (8) the state shall pay eighty-three percent (83%) and the county shall pay seventeen percent (17%).

Article 2. Duties, Responsibilities, and General Powers

1240. The superintendent of schools of each county shall:

- (a) Superintend the schools of his county.
- (b) Visit and examine each school in his county at reasonable intervals to observe their operation and to learn of their problems. He may annually present a report of the state of the schools in his county, and of his office, including but not limited to his observations while visiting the schools, to the board of education and the board of supervisors of his county.
- (c) Distribute all laws, reports, circulars, instructions, and blanks

which he may receive for the use of the school officers.

(d) Keep in his office the reports of the Superintendent of Public Instruction, and the Board of Governors of the California Community Colleges.

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

1241. The county superintendent of schools shall also:

(a) Enforce the course of study.

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

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

(d) Deliver to his successor, at the close of his official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which will be filed in the office of the county clerk.

1242. The county superintendent of schools in each county shall annually inspect each school district maintaining classes in grades 7 or 9 through 12, and shall certify to the Superintendent of Public Instruction whether or not each high school district or unified school district under his jurisdiction has complied, in the maintenance of such grades, with the provisions of Sections 48432, 51260, and 51261. Upon satisfactory evidence being shown to the Superintendent of Public Instruction that the governing board of any high school district or unified school district has neglected or refused to establish only such courses of study as have been approved by the State Board of Education, or to comply with any of the other provisions of Sections 48432, 51260, and 51261, the Superintendent of Public Instruction shall withhold from the district, ten percent (10%) of all apportionments from the State School Fund, until the governing board fully complies with the provisions of Sections 48432, 51260, and 51261; provided that apportionments to a district shall not be reduced below one hundred twenty dollars (\$120) per pupil in average daily attendance in the district during the fiscal year.

1243. The county superintendent of schools shall make reports, when directed by the Superintendent of Public Instruction, or the Board of Governors of the California Community Colleges, showing such matters relating to the public schools in his county as may be required of him.

If he fails to make full and correct report as required under the provisions of this section at the time fixed by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, he shall forfeit one hundred dollars (\$100) of his salary; and the county auditor whose duty it is to draw the warrant for the salary of the superintendent of schools shall deduct this amount from the warrant on receiving notice from the Superintendent of Public Instruction or the Board of Governors of

the California Community Colleges to the effect that the superintendent of schools has failed to make the report as directed.

1244. Each county superintendent of schools shall annually, at such time as is required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges but not later than July 15th, submit to the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges a complete report of the attendance credited to the public schools of the county for the school year closing June 30th immediately preceding July 15th. Forms for the reports shall be furnished by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges. Reports shall contain and be accompanied by such other information and reports relating to the computation of state apportionments as may be required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges.

1245. Each county superintendent of schools shall submit such additional reports as may from time to time be required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges. It shall be the duty of each school district and community college district to furnish to the county superintendent of schools any records, reports, documents, maps or other data pertaining to reports required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges.

1246. Whenever the destruction of records of a county superintendent of schools is not otherwise authorized or provided for by law, the county superintendent of schools may destroy such records of his office in accordance with regulations of the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges which either is herewith authorized to adopt.

1247. The county superintendent of schools may sell publications produced by him.

Sections 1247 to 1249, inclusive, do not authorize a county superintendent of schools to prepare or publish written materials, the preparation or publication of which is not otherwise authorized by law.

1248. The county superintendent of schools, with the approval of the county board of education, may fix the price not to exceed the estimated cost of production for the sale of any publication produced by him.

1249. All moneys received from the sale of publications produced by the county superintendent of schools shall be deposited to the credit of the fund against which the cost of printing the publication was charged.

1250. The county superintendent of schools, with the approval of the county board of education, may enter into an agreement with the governing board of any school district or community college district

under his jurisdiction, to provide for the use by the district of audiovisual equipment and apparatus. The county superintendent of schools is authorized to acquire by purchase, lease, or any other means the equipment and apparatus necessary to provide the service, and to establish facilities for maintaining and servicing such equipment, and for its distribution to school districts and community college districts. The title to all equipment and apparatus acquired by the county superintendent of schools under this section shall be vested in the office of the county superintendent of schools.

The agreement shall, among other matters, provide for the amount of the payment to be made by the districts to the county superintendent of schools, and the time the payments shall be made. The payments made by all districts that have entered into an agreement with the county superintendent of schools under this section shall not exceed the costs of rendering the service. The costs may include any expense necessary to carry out the provisions of this section.

The governing board of a school district or a community college district may withdraw from an agreement by giving notice six months prior to the beginning of the next fiscal year, and the agreement shall terminate on the last day of the then current fiscal year. The terms of an agreement may be changed by mutual consent at any time.

The county superintendent of schools shall transfer the amounts agreed upon, at the time or times agreed upon, from the general fund of the district to the special equipment and apparatus fund of the county superintendent of schools, which fund is hereby authorized. All funds received for the purposes of this section shall be deposited in said fund, and all expenditures made for the purposes of this section shall be made from the fund.

1251. The county superintendent of schools, with the approval of the county board of education, may enter into an agreement with a nonpublic institution of higher education or the governing board of any nonpublic school to provide for the use by the institution or school of audiovisual curriculum materials, including equipment and apparatus, under the control of the county superintendent of schools, in the same manner as public schools pursuant to Section 1250 except as otherwise provided in this section.

The agreement shall, among other matters, provide for the amount of the payment to be made by the nonpublic institution of higher education or the nonpublic school to the county superintendent of schools and the time payments shall be made. The payments made by the nonprofit institution of higher education or nonpublic school that has entered into an agreement with the county superintendent of schools under this section shall be equal to the cost incurred by the county superintendent of schools in connection with the handling of, and the loss, destruction or damage to the audiovisual curriculum materials, including equipment and apparatus, by the nonpublic institution of higher education or the nonpublic school.

The governing board of any nonpublic school may withdraw from an agreement by giving notice six months prior to the beginning of the next fiscal year, and the agreement shall terminate on the last day of the then current fiscal year. The terms of an agreement may be changed by mutual consent at any time.

All funds received for the purposes of this section shall be deposited in the special equipment and apparatus fund of the county superintendent of schools authorized by Section 1250, and all expenditures made for the purposes of this section shall be made from that fund.

The audiovisual curriculum materials, including equipment and apparatus, shall be available for use by the nonpublic institution of higher education or the nonpublic school pursuant to this section only when such materials, including equipment and apparatus, are not needed by the public schools or the county superintendent of schools.

As used in this section, "nonpublic school" means a school that satisfies the requirements of Section 48222 and is exempt from taxation under Section 214 of the Revenue and Taxation Code.

1252. The county superintendent of schools of any county may, with the approval of the State Compensation Insurance Fund, insure the liability for compensation of any school districts and community college districts under his jurisdiction, the governing boards of which consent thereto, with the State Compensation Insurance Fund under one policy or contract of insurance and pay the premium for the insurance from the county school service fund. Immediately following the payment of the final premium the county superintendent of schools shall transfer from the funds of each insured district to the county school service fund an amount which bears the same ratio to the premium as the payroll of each district bears to the total payroll of all the insured districts.

Any dividends earned on the premiums paid under the provisions of this section shall be credited to the individual districts in proportion to the amount of the premium charged to each district.

The expenses of the county superintendent of schools incurred under this section shall be charged to and paid from the county school service fund, which fund shall be reimbursed for such expenses from the general funds of the school districts and community college districts on whose behalf the expenditures are incurred.

1253. (a) Whenever any school district or community college district is situated partly within two or more counties, jurisdiction over it is, unless otherwise provided in this code, in the county superintendent of schools of the county in which the schoolhouse of the district is located, or, if there be a schoolhouse of the district in each of two or more counties, jurisdiction over the district is in the county superintendent of schools of the county in which the greatest area of the district lies.

(b) Jurisdiction once established pursuant to subdivision (a) over a school district or community college district situated in two or more counties, shall not be changed, regardless of changes in the schoolhouse maintained by the district in the several counties or changes in the areas of the several counties included within the district, except by a majority of the votes cast by the electors within the district on the proposition for change of such jurisdiction submitted at election.

1254. The county superintendent of schools of the county in which the greatest part of the assessed valuation of any unified school district lies has jurisdiction over the unified school district for the purposes specified in this code.

1255. In each community college district, the superintendent of schools of the county in which the community college buildings are located shall have jurisdiction over all matters in which his office is concerned.

1256. The county superintendent of schools shall, when there is sufficient money in the fund of any school district or community college district to maintain a free school in the district for 175 days of actual teaching, if the trustees neglect or refuse to employ a teacher, appoint a teacher, and open and keep the school. He may draw his requisition upon the county auditor, who shall draw his warrant upon the fund of the district for the expense incurred.

1257. In case of the failure of the governing board of any school district or community college district to employ a janitor as provided elsewhere in this code, the county superintendent shall appoint a janitor who shall be paid out of the school fund of the district.

If the governing board of any school district or community college district fails or refuses to issue an order for the compensation for services provided for in this section, he shall issue his requisition upon the county fund apportioned to the district.

1258. Whenever by this code the county superintendent of schools is authorized or required to prepare for, hold or conduct any election in or for any public school district, or community college district, as the case may be, such county superintendent may contract with the county clerk, or with the registrar of voters if such office has been established in the county, for the performance under the supervision of such county superintendent of any or all of the duties incident to the preparation for and holding of such.

The governing board of a school district or community college district, as the case may be, may contract with the county clerk, or with the registrar of voters if such office has been established in the county, for the performance under the supervision of the governing board of any or all duties incident to the holding or conducting of an election in the district for the issuance and sale of bonds of the district pursuant to Section 15100.

1259. The Director of Corrections may establish and maintain classes for inmates of institutions or facilities under the jurisdiction of the Department of Corrections by entering into an agreement

with the county superintendent of schools of a county in which the institution or facility is located, or of a county contiguous to such county, with the approval of the county board of education, under which the county shall maintain classes for such inmates.

Any agreement entered into between the county superintendent of schools and the Director of Corrections, pursuant to this section shall require the Department of Corrections to reimburse the county for the cost to the county of maintaining such classes. "Cost" as used herein includes contributions required to be made by the county superintendent to the State Teachers' Retirement System, but such cost shall not include an amount in excess of the amount expended by the superintendent for salaries of the teachers for such classes, increased by one-fifth. Salaries of such teachers for the purposes of this section shall not exceed the salaries as set by the county superintendent for teachers in other classes for adults maintained by the county.

Attendance or average daily attendance in classes established pursuant to this section shall not be reported to the State Department of Education or the Board of Governors of the California Community Colleges for apportionment and no apportionment from the State School Fund shall be made on account of average daily attendance in such classes.

No county superintendent of schools shall provide for the academic education of adult inmates of state institutions or facilities under the jurisdiction of the Department of Corrections except in accordance with this section.

1260. The county superintendent of schools with the approval of the county board of education may:

(a) Conduct studies through research and investigation as are determined by the county board to be required in connection with the future management, conditions, needs, and financial support of the schools within the county; or join with one or more school district or community college district governing boards in the conduct of such studies.

(b) Install and maintain exhibits of educational programs and activities of the school districts and community college districts within the county at any county fair or at any agricultural district fair.

(c) Inform and make known to the citizens of the county, the educational programs and activities of the school districts or community college districts within his jurisdiction.

(d) Subscribe for membership in any society, association, or organization which has for its primary purpose the promotion and advancement of public or private education, subject to the same restrictions as are imposed by Section 35173 and Section 72631 on governing boards of school districts or community college districts respecting such subscriptions.

1261. The county superintendent of schools may contract with any other county superintendent of schools for the purpose of providing the educational services or conducting programs

authorized for a county superintendent of schools for the education of educationally handicapped pupils, physically handicapped pupils, and mentally retarded pupils. A contract entered into pursuant to this section shall be approved by each board of education of the counties involved before it may be given effect.

1262. Each county superintendent of schools is authorized upon request to provide consultative or coordinative services for school districts and community college districts under his jurisdiction which have established educational programs that are designed to meet the requirements of federal law for the receipt of federal funds for the support of the programs, and that are supported in whole or in part by federal funds. Such services may be financed by such federal funds as may be provided.

1263. It is the intent of the Legislature that certificated personnel serving in the public schools have a responsible understanding of the nature and range of physical, mental, and emotional disabilities of children and youth and of the major implications of such disabilities. In furtherance of this intent, county superintendents of schools are encouraged, in cooperation with school districts, community college districts and colleges and universities, to sponsor workshops or similar activities for certificated personnel to provide opportunities to gain or increase these understandings.

It is not the intent of the Legislature that this section be interpreted as a requirement for the issuance or the renewal of any credential.

1264. The superintendent of schools of each county may require the governing board of any district, except a district governed by a city or city and county board of education, to repair the school buildings or property or to abate any nuisance in or about the premises if the cost of the repairs or abatement does not exceed fifty dollars (\$50) and there is a sufficient amount of money in the treasury to the credit of the district.

1265. The county superintendent of schools may also require the governing board, where practicable, to adorn the school grounds with fruit and ornamental trees and shrubbery. If the governing board neglects to do so, he may cause it to be done and pay for it on his requisition upon the county auditor, who shall draw his warrant payable out of any money to the credit of the district.

1266. Whenever the county superintendent of schools of any county provides for the maintenance and repair of the property of such school districts or community college districts, under his jurisdiction as elect to take advantage of the provisions of Sections 1264 to 1270, inclusive, he shall upon the request of the governing board of any such district transfer from the general fund of the district to the "school maintenance and repair fund" a sum not to exceed 1 percent of the amount apportioned from the State School Fund to the district during the fiscal year in which the governing board of the district notifies him of its election to take advantage of the provisions of Sections 1264 to 1270, inclusive.

(Amended by Stats 1976, Ch 1011.)

## [ORIGINAL SECTION]

1266. Whenever the county superintendent of schools of any county provides for the maintenance and repair of the property of such school districts or community college districts, under his jurisdiction as elect to take advantage of the provisions of this article, he shall upon the request of the governing board of any such district transfer from the general fund of the district to the "school maintenance and repair fund" a sum not to exceed 1 percent of the amount apportioned from the State School Fund to the district during the fiscal year in which the governing board of the district notifies him of its election to take advantage of the provisions of this article

1267. Out of the school maintenance and repair fund the superintendent of schools of the county shall purchase materials, bill the district on supplies and equipment, and employ labor to maintain and repair school premises and property of the school districts, and community college districts, under his jurisdiction which have elected to take advantage of the provisions of this article, and shall deliver a memorandum in triplicate of the cost of the service on or about the first of each calendar month to the school district.

1268. Upon receipt of the memorandum the governing board of the district or community college district shall draw an order on the funds of the district in favor of the county superintendent of schools in the amount of such cost and forward it with the duplicate and triplicate of the memorandum to the superintendent of schools who shall verify the cost and file the duplicate with the county auditor and the triplicate with the county treasurer. In lieu of the issuance of an order by the governing board of the district in payment of the supplies and equipment, the superintendent of schools of the county may transfer from the proper account of the school district to his school maintenance and repair fund a sum equal to the cost of the services as stated in the memorandum.

1269. The superintendent of schools of the county may employ such extra help as is necessary to perform the labor for the maintenance and repair work, as well as to provide for the supervision and transportation of the labor together with the equipment and materials for the work. The cost price of the maintenance and repair services to any school district or community college district is the original cost thereof and in addition a sum sufficient to reimburse the county superintendent of schools for all supervision, transportation, equipment, and other expenses, but the sum added shall not in any case exceed 10 percent of the cost of labor and supplies.

1270. The county superintendent of schools of any county may use schoolbuses to transport pupils attending schools or classes operated by the county superintendent pursuant to Article 12 (commencing with Section 1850), Article 14 (commencing with Section 1880), and Article 15 (commencing with Section 1920) of Chapter 6 of this part, including adults attending special classes for adults designed to serve the educational needs of handicapped adults operated pursuant to Section 52570 or 78440, and teachers or other employees employed by the county superintendent of schools, to and

from school athletic contests or other school activities, or to and from fairs or expositions held in the state or in any adjoining state and in which the pupils participate actively or as spectators. The transportation may be provided on any day or days throughout the school year.

1271. The county superintendent of schools may, with the approval of the county board of education, hold one trustees' meeting in each year as follows:

(a) One school trustee of each school district and community college district of the county shall attend the meeting and participate in its proceedings but more than one trustee of any district may attend if the board of trustees of that district so directs.

(b) School trustees of each school district and community college district shall select the trustee or trustees who shall attend the meeting.

(c) Each trustee selected to attend the meeting shall be allowed his actual traveling expenses for not to exceed one day incurred in going to and returning from the meeting. The expenses shall be verified by the county superintendent of schools.

(d) The county superintendent shall notify each trustee of the county at least 10 days prior to calling of the trustees meeting of the time and place of the meeting.

(e) Each session of the trustees meeting may be called at any hour on the day specified and may continue for such time as those meeting see fit.

(f) The county superintendent shall draw his requisition on the county auditor who shall draw his warrant on the county school service fund to pay the expenses of holding the trustees meeting.

### Article 3. Staff

1290. Except as otherwise provided by law, every county superintendent may appoint a deputy.

1291. A deputy appointed pursuant to Section 1290 shall not be allowed a salary, payable out of the school fund.

1292. The compensation of each deputy school superintendent of a city and county shall be not less than the minimum received by any high school principal in the city and county.

1293. A county superintendent of schools may enter into contracts of employment with persons employed by him in positions requiring certification qualifications for periods of not to exceed the end of the school year in which the term for which the county superintendent of schools was elected or appointed expires and in no event, for more than four years and six months.

1294. Each person employed by a county superintendent of schools in a position requiring certification qualifications, except employees included in the civil service system or in any merit system, or any person who holds an office by virtue of an election conducted under the provisions of the Elections Code or the

Education Code, and whose salary is paid from the county school service fund, has the same right with respect to leaves of absence, sick leave, and bereavement leave as a person employed by a school district or a community college district in a position requiring certification qualifications.

The provisions of Sections 44844, 44845, 44949, 44955, 44962 to 44976, inclusive, 44977, 44978, 44979, 44983, 44984, 44985, 87413, 87414, 87740, 87743, 87763 to 87779, inclusive, 87780, 87781, 87782, 87786, 87787, and 87788 apply to persons so employed by a county superintendent of schools and so paid from the county school service fund. Whenever, in such provisions, a duty or power is imposed upon or granted to the governing board of a school district or community college district or an employee thereof, such power or duty shall, for the purposes of this section, be deemed to be granted to or imposed on the county superintendent of schools or his employee, respectively. When "district" is used in such provisions, it shall, for the purposes of this section, be deemed to mean "county superintendent of schools." Compensation paid to such employees during such leaves shall be paid from the county school service fund.

The granting of leaves of absence to such employees pursuant to Section 44966 or Section 87767 shall be by the county superintendent of schools, upon approval by the county board of education.

1295. The county superintendent of schools, with the approval of the county board of education, may grant leaves of absence, with or without pay, to persons employed by him in positions not requiring certification qualifications in the same manner and to the same extent as is permitted of school district governing boards by Section 45190 and Section 88190.

1296. If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each person who, after being employed for three complete consecutive school years by such superintendent in a teaching position in such schools or classes requiring certification qualifications and whose salary is paid from the county school service fund, is reelected for the next succeeding school year to such a position in such schools or classes, shall be classified as and become a permanent employee of the county superintendent of schools.

Such an employee shall have the same rights and duties as employees of school districts to which Section 44882 applies.

1297. For the purpose of insurance under the workers' compensation laws of this state, any person employed by a county superintendent of schools to supervise instruction or to give instruction in the school districts or community college districts under the jurisdiction of the county superintendent of schools shall be deemed an employee of the county. The cost of insuring any person employed to supervise instruction shall be paid by the county superintendent of schools from the county school service fund. The cost of insuring any person employed by the county superintendent of schools to give instruction shall be paid by the county

superintendent of schools from the county school service fund.

1298. By agreement between the county board of education and county board of supervisors, in counties in which the provisions of Article 4 (commencing with Section 1310) of Chapter 2 of this division have become operative and in which functions and duties have been transferred from the county board of supervisors to the county board of education in accordance with Sections 1043 and 1080, the county superintendent of schools may be authorized to employ an administrative adviser as part of the classified service. His compensation will be as fixed by the county board of education, and shall be paid from that part of the single budget prepared by the county board of education for which a county tax is levied pursuant to Section 1623. His duties shall be such administrative duties as are established by the county board of education and to counsel with and act as a coordinator between, the district attorney or county counsel, the county board of education, the county committee on school district organization, the personnel commission, the county superintendent of schools, school districts, and community college districts which request his services. The district attorney or county counsel shall continue to have and to discharge all of the authority and duties imposed upon him by law in the schools and education fields; however, such administrative adviser may be deputized by the district attorney or county counsel, in his discretion, if such adviser is admitted to practice law in this state.

1299. A supervisor of health employed by the county superintendent of schools shall perform such duties in connection with the supervision of the health of pupils as are prescribed by the county superintendent of schools.

#### Article 4. Classified County School Employees

1310. The provisions of this article shall become operative in any county upon adoption of a resolution by the county board of supervisors to make it operative.

1311. Each person employed by a county superintendent of schools in a position not requiring certification qualifications and whose salary is paid from the county school service fund shall be employed in accordance with the provisions of Chapter 1 (commencing with Section 44000) and Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of Title 2, and Chapter 1 (commencing with Section 87000) and Chapter 4 (commencing with Section 88000) of Part 51 of Division 7 of Title 3.

1312. County employees assigned to the office of the county superintendent of schools shall cease to be employees of the county upon the establishment of a separate budget for the office of the county superintendent of schools, and shall thereafter be paid from the county school service fund. Other county employees assigned to functions transferred to the county board of education pursuant to Article 3 (commencing with Section 1080) of Chapter 1 of this part

shall cease to be employees of the county upon the effective date of such transfer, and shall thereafter be paid from the county school service fund.

1313. Each county employee whose status is changed by this article, and who is in employment and a member of a county retirement system other than one provided by contract with the State Employees' Retirement System on the date of such change, shall become eligible for membership in the State Employees' Retirement System in accordance with the State Employees' Retirement Law with respect to his employment thereafter, and shall be subject to the reciprocal benefits provided by said systems; provided, that such employee may elect to continue in membership of such county retirement system with respect to such employment thereafter, in which event the same appropriations and transfers of funds shall be made to the retirement fund of the county system for such employee as those required of the county under the county retirement law, and such amounts shall be legal charges against the county school service fund. The election authorized by this section shall be made no later than the date preceding the date upon which his status is changed in accordance with procedures to be established by the board of supervisors, which shall allow at least 30 days to make the election. The election once made may not be rescinded. An employee who does not elect to continue membership in the county system shall be deemed to have discontinued county employment for purposes of the county system at the close of the day preceding the date upon which his status changes.

1314. County employees whose status is changed by this article shall retain all accumulated and unused sick leave, vacation, compensatory overtime and other benefits which can reasonably be construed to have been an earned right at the time of transfer from county service to the county school service fund.

1315. The county board of education may grant to employees whose salaries are paid from the county school service fund any employee benefit which the board of supervisors provides for county employees.

1316. No employee transferred from the county service to a position, the salary for which is paid from the county school service fund, shall suffer any loss of salary at the time of transfer or as to the future as relates to his status on the salary scale of the county in effect at the time of the transfer.

1317. The county board of education shall adopt the merit system as provided in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2, and Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3, if the county has a merit (civil service) system in effect at the time of the adoption of this article as provided in Section 1310.

1318. The county board of education or county superintendent of schools may declare a holiday in the schools or offices operated by the county superintendent of schools whenever good reason exists.

## Article 5. Unemployment Insurance

1330. The Superintendent of Public Instruction or Board of Governors of the California Community Colleges as the case may be shall represent, and exercise all rights of appeal under this part on behalf of school employers or arrange with a county superintendent of schools or make designation thereof consistent with this section for the filing of appeals for school employers and for the representation of school employers at hearings held under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code. The cost of services provided by the Superintendent of Public Instruction or Board of Governors of the California Community Colleges under this section and under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code shall be paid from the Classified School Employees Fund. The Superintendent of Public Instruction or Board of Governors of the California Community Colleges is hereby authorized to obtain pertinent personnel records and data from any school employer and to act as an agent individually or collectively for school employers in matters pertaining to unemployment insurance.

Each county superintendent of schools, unless notified by the administrator or the Superintendent of Public Instruction or Board of Governors of the California Community Colleges to the contrary, shall perform such duties and render such services as required to implement such program. Any district, combination of districts, county, combination of counties, or combination of counties, school districts, or community college districts, may be designated by the Superintendent of Public Instruction or Board of Governors of the California Community Colleges whereby one agency may administer the program for the purpose of consolidation for economy and employment of specialists. This consolidation may include the services of a regional data center operated by a county superintendent of schools or the data-processing services of a school district, or community college district.

Each school employer shall perform pursuant to Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code and shall respond to the Superintendent of Public Instruction or Board of Governors of the California Community Colleges and the county superintendent of schools or designated agency as soon as possible, in no case later than 48 hours, to inquiries made on behalf of such county superintendent or the Superintendent of Public Instruction or Board of Governors of the California Community Colleges in reference to any aspect of eligibility, notice of claim or appeal under the unemployment insurance program. Each county superintendent or agent thereof who is responsible for administering the unemployment insurance program shall be responsible for timely responses to any inquiry by

the administrator, Superintendent of Public Instruction, State Treasurer, State Controller, or other officer or person responsible for disbursements on behalf of the joint account, the Classified School Employees Fund in the State Treasury as established by Section 822 of the Unemployment Insurance Code, and the Unemployment Fund in the State Treasury. Any school employer which fails to pay the contributions, interest, charges or levies within the time required shall be liable for interest on moneys due at the rate of one-half percent (0.5%) per month or fraction thereof from and after the date of delinquency until paid. If, except as stated in Section 828 of the Unemployment Insurance Code with reference to Section 826 thereof, the school employer fails, without good cause, to pay any sums required within the time required a penalty of 10 percent of the amount noticed, billed or required shall be made by the administrator. The administrator may for good cause waive all or a portion of interest and penalty.

### CHAPTER 3. COUNTY BOARDS OF SUPERVISORS

1400. Except as provided in Sections 4040 to 4045, inclusive, all actions required by this code to be taken by the board of supervisors of the county in which a school district or community college district is located, shall, in the case of any joint school district, be taken by the concurrent action of the boards of supervisors of each county in which any part of the joint district is located.

(Amended by Stats. 1976, Ch. 1011.)

#### [ORIGINAL SECTION]

1400. Except as provided in Sections 4041 to 4045, inclusive, all actions required by this code to be taken by the board of supervisors of the county in which a school district or community college district is located, shall, in the case of any joint school district, be taken by the concurrent action of the boards of supervisors of each county in which any part of the joint district is located.

### CHAPTER 4. EXPENSES

#### Article 1. Expenses Payable From County School Service Fund

1500. All expenses shall be paid out of the county school service fund necessary for the county board of education and the county superintendent of schools to perform the duties, render the services and comply with the provisions of Sections 1250, 1252, 1270, 1297, 1299, 1330, 1601, 1602, 1702, 1925, 5050, 41020, 41360, 42621, 42622, 45035, 45056, 45208, 56072, 56720, 60601, 60602, 60605, 84040, 85221, 85222, 78842, 87809, 87829, and 88208 and with the provisions of Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code.

The provisions of this section shall not be construed to prohibit support from the county general fund from being provided for duties and services performed pursuant to the sections and part enumerated above.

## Article 2. Expenses Payable From County General Fund

1510. Except as provided in Section 1500, all expenses necessary for the county board of education, the county committee on school district organization and the county superintendent of schools to comply with the following provisions are payable from the county general fund: 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1200, 1201, 1202, 1203, 1240, 1241, 1243, 1244, 1245, 1290, 1298, 2600, 4208, 4293, 4298, 4299, 4406, 4407, 4408, 4410, 4411, 5425, 5426, 10020, 14200, 14201, 16061, 16166, 22800.5, 23000, 23002, 23003, 23004, 23005, 23006, 23008, 23009, 23010, 35102, 37066, 39121, 40000, 42124, 42636, 42638, 42643, 42662, 42670, 42671, 42672, 42673, 42674, 42675, 42676, 42677, 42678, 42690, 42691, 42692, 42693, 42694, 42800, 44310, 44316, 44323, 44348, 44422, 44427, 44428, 44429, 44430, 44433, 44434, 44435, 44436, 44437, 44804, 44816, 44817, 44818, 44819, 44820, 44842, 44843, 44857, 45034, 45056, 45057, 48263, 48674, 48675, 48914, 49406, 52550, 52551, 72100, 76041, 76406, 81110, 85112, 85236, 85238, 85243, 85272, 85280, 85281, 85282, 85283, 85284, 85285, 85286, 85287, 85288, 85300, 85301, 85302, 85303, 85304, 85400, 87200, 87226, 87332, 87337, 87338, 87339, 87340, 87343, 87344, 87345, 87346, 87347, 87411, 87412, 87426, 87703, 87713, 87714, 87808, 87829, and 87830.

The provisions of this section shall not be construed to prohibit support from the county general fund from being provided for duties and services performed pursuant to sections enumerated above for those counties operating under the provisions of Section 1080.

## CHAPTER 5. COUNTY SCHOOL SERVICE FUND

### Article 1. County School Service Fund

1600. There is hereby established in the treasury of each county the "county school service fund."

1601. Wherever any of the terms "unapportioned county elementary school fund," "county elementary school supervision fund," "unapportioned county high school fund," and "county school service fund" are used in this code or in any other law, such term shall be deemed to refer to and mean the "county school service fund."

1602. The county school service fund shall be employed by the county superintendent of schools to pay such charges against the fund as are provided in this code; and to provide with the approval of the county board of education (a) additional apportionments to any school district or community college district under his jurisdiction for current expenses which (1) has levied the maximum district tax and in which the annual average current cost per pupil does not exceed the annual average current cost per pupil for all districts of the same type within the county or under the jurisdiction

of the county superintendent of schools, or (2) which needs additional apportionments for current expenses because of temporary emergency conditions, and (b) additional apportionments to any school district or community college district under his jurisdiction for the transportation of pupils to and from school to meet temporary emergency conditions.

1603. A county superintendent of schools may, with the approval of the county board of education, lend funds from the county school service fund to a unified school district which was organized in 1970 and whose average daily attendance for the 1971-72 school year was between 39,000 and 41,000, if such a loan is required to enable the school district to complete its educational program for the then current school year and the governing board of the district requests such a loan. The county board of education shall determine the amount of the loan.

The amount of the loan, together with interest at a rate determined by the county treasurer, shall be repaid by the school district to the county superintendent of schools over not more than a three-year period. The county superintendent of schools may withhold from the apportionments to be made to the district from the State School Fund in each year the amount which is to be repaid in that year.

After disbursement of funds to the district and until the loan is fully repaid the county superintendent of schools with the cooperation of the Superintendent of Public Instruction shall from time to time review the financial management of the district and may make recommendations to the governing board of the district to correct or avoid financial problems of the district.

This section shall be in effect only until July 1, 1977, and as of that date is repealed.

1604. No moneys shall be expended from the county school service fund for any purpose in excess of the latest proposed expenditures for such purpose as approved by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, as the case may be, under Section 14050, without the approval of the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, as the case may be.

It shall be the duty of the county auditor to approve warrants drawn on the county school service fund for expenses approved in the county school service fund budget.

1605. The title to all property purchased by the county superintendent of schools from the county school service fund is in the offices of the county superintendent of schools.

1606. The money credited to the county school service fund of a county pursuant to Section 16417 of the Government Code may be apportioned by the county superintendent of schools, with the approval of the county board of education, to school districts or community college districts within which there is land which has

been acquired by the United States.

**Article 2. Single Budget for: County School Service Fund,  
County Board of Education, County Committee, County  
Superintendent of Schools**

1620. The provisions of this article shall become applicable in any county upon adoption of a resolution to that effect by the county board of supervisors.

1621. On or before the date specified by the Superintendent of Public Instruction each year, the county board of education shall file with the Superintendent of Public Instruction a single-fund tentative budget showing all the purposes for which the county school service fund will need money.

The budget may also contain a general reserve in such sum as the county board of education may deem sufficient to meet the cash requirements of the next succeeding fiscal year until adequate proceeds of the taxes levied or apportionment of state funds are available.

The budget may also contain an undistributed reserve which shall be available for appropriation by a two-thirds vote of the members of the county board of education to cover expenditures that have not been provided for, that have been insufficiently provided for, or for unforeseen requirements as they may arise.

The single fund tentative budget shall include estimated cash balances, estimated apportionments from the State School Fund, and an estimate of revenues from sources other than taxes on the secured roll of the equalized assessment roll of the county.

1622. The single-fund budget shall be prepared in the form prescribed and furnished by the Superintendent of Public Instruction and shall be the county school service fund budget.

1623. On or before August 10, the county board of education shall hold a public hearing on the county school service fund budget. Notice of the public hearing shall be published at least once in a newspaper of general circulation published within the county not less than 10 days prior to the date set for the hearing. The cost of publication shall be a proper and legal charge against the county school service fund and shall not exceed the rate fixed by the board of supervisors for official advertising. The published notice shall include the time, place, and purpose of the public hearing, and such other information as may be determined by the county board of education, and shall state that any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak to the proposed budget or any item therein.

Following the public hearing, the final budget shall be adopted by the county board of education and filed with the Superintendent of Public Instruction, the board of supervisors, and the county auditor.

1624. On or before August 15, the county board of education shall

file with the board of supervisors a certified statement showing the amount of money to be raised by a county tax for purposes of this chapter. The board of supervisors shall fix a rate for the county tax sufficient to produce the amount specified in the statement and shall, at the time of levying other county taxes, levy the tax so fixed.

The proceeds of the tax levied pursuant to this section shall be credited to the single county school service fund of the county and any expenses of the county superintendent of schools, the county board of education, and the county committee on school district organization required by Section 1510 or any other sections of this code required to be paid from the county general fund shall not be paid from such fund but shall be paid from the money in the single county school service fund.

1625. The county school service fund shall be audited annually by a public accountant or a certified public accountant selected by the county superintendent of schools. The cost of the audit shall be a legal charge against the county school service fund.

## CHAPTER 6. COUNTY SCHOOL SERVICE FUND PROGRAMS AND SERVICES

### Article 1. General Provisions

1700. The Legislature hereby declares that it is in the interest of the state and of the people for the office of the county superintendent of schools, through the county school service fund, to provide coordination of the educational program among school districts and community college districts under his jurisdiction and to provide professional and financial assistance to school districts and community college districts which otherwise, because of size or location, would not be able to furnish a satisfactory program of education for their children. Such assistance is a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this chapter, the Legislature considers that the coordination of the educational program constitutes the greatest continuing need to be met through the county school service fund. To meet this need the necessity is recognized to provide professional services to coordinate courses of study, guidance services, health services, school library services, special education, and attendance activities.

As an additional need, the Legislature recognizes the necessity to provide professional services in districts too small to supply such services for themselves economically and effectively, such as, (a) to prepare courses of study; (b) to supervise instructional practices; (c) to provide direct guidance services, health services, and attendance services normally provided in an educational program; (d) to provide for the purchase, distribution, and use of supplementary instructional materials and equipment; and (e) to provide

educational opportunity to normal and special pupils who would otherwise be denied it. It is recognized further that providing for professional service is a transitory function of the county school service fund to be assumed by school districts and community college districts when, through growth or reorganization, they will be able to perform the services for themselves.

It is the further intent of the Legislature that:

(a) Services involving the coordination of the educational program which have among others the purposes of (1) enforcing minimum standards, (2) improving the educational program, and (3) promoting order and reasonable uniformity in the educational program shall be provided, except as may be specifically authorized, at the district level, reserving to the district the opportunity and responsibility for internal improvement, and that such services will be provided in such a manner that recognition will be given to the responsibilities placed upon school districts and community college districts, by the Legislature to determine and administer their own educational program.

(b) Services to school districts and community college districts, which do not constitute coordination among districts shall be provided in such a manner that impetus will be given to strengthening school districts and community college districts, and to improving district organization to the end that more effective programs of education may be offered, and that the provision of services through the county school service fund shall not act to deter or delay any school districts and community college districts, from furnishing such services for themselves.

(c) Services to school districts and community college districts, shall be cooperatively provided by two or more county superintendents of schools without regard for county boundaries whenever a particular service may be so provided with economy and effectiveness.

(d) The direct operation of an educational program by the county superintendent of schools shall, except as specifically authorized by the Legislature, be limited to those emergency cases where children would otherwise be denied an opportunity for education.

1701. Any services of the county superintendent of schools authorized by this chapter which relate to the coordination of the educational program or coordination of the course of study among districts under his jurisdiction, the preparation of courses of study, the development of courses of study or curricula materials, or research or development studies in connection with the curricular and special services of the county superintendent of schools are subject to the budget and other restrictions of Section 14052 and any other applicable sections.

1702. The county school service fund shall be used to pay for those services provided by the county superintendent of schools that are authorized by this chapter, and for such other purposes as are specifically authorized in Section 1500.

1703. The county superintendent of schools may, with the approval of the county board of education and in accordance with regulations of the Superintendent of Public Instruction which he is authorized to adopt, employ qualified personnel to provide for the coordination of courses of study, guidance services, health services, school library services, special education, and attendance activities among the school districts under his jurisdiction. The regulations of the Superintendent of Public Instruction adopted pursuant to this section shall be adopted with the advice of an advisory committee to include county superintendents of schools, which the Superintendent of Public Instruction is herewith authorized to appoint.

1704. The services described in Section 1703 shall, except in advisory services in school business administration activities, clerical, accounting, and stenographic services, be performed by persons who hold a valid credential, or a life diploma based thereon, authorizing administrative services.

Any person who is, and continuously since September 7, 1955, has been, employed in the office of a county superintendent of schools and is performing any of the services described in Sections 1703 and 1704 may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed in his position.

1705. In addition to all other amounts payable to the county school service fund on account of special education schools, programs, and classes maintained by the county superintendent of schools for the education of physically handicapped pupils, mentally retarded pupils, severely mentally retarded pupils, and educationally handicapped pupils, there shall be paid by the school districts in which such pupils reside, an amount, per unit of average daily attendance of any such pupils being educated by the county superintendent of schools in the current fiscal year, equal to the amount produced in the district in the current fiscal year by the applicable tax rates specified in Section 41761 or 84731 per unit of the total average daily attendance of the district, but not to exceed the amount per average daily attendance computed pursuant to subdivision (b) (2) of Section 41703 or Section 41712. Whenever a county superintendent of schools provides education to pupils who reside in a licensed children's institution or a family home located either within or without the boundaries of the county, the county superintendent of schools shall be reimbursed by the county of residence pursuant to Section 42904.

In lieu of the payments to the county school service fund for mentally retarded pupils and severely mentally retarded pupils and physically handicapped pupils provided for in this section, the county superintendent of schools, with the approval of the county board of education, may add an amount equal to the amount of such payments to the amount, if any, he certifies in accordance with the provisions of Sections 1856, 1886, 1887, and 42909.

**Article 2. Special Education Program Coordination and Services**

1710. No educational programs for physically handicapped, educable mentally retarded, trainable mentally retarded, regional occupational centers, or regional occupational programs already in operation in school districts or community college districts shall be transferred to the county superintendent of schools without the approval of the Superintendent of Public Instruction or Board of Governors of the California Community Colleges, as the case may be.

The Superintendent of Public Instruction or Board of Governors of the California Community Colleges, as the case may be, shall approve such transfers only if he determines that it is in the best interest of the education and welfare of the pupils attending the program to be transferred.

1711. The county superintendent of schools shall have primary responsibility for coordinating all special programs maintained by the office of the county superintendent and by the school district or community college district under the jurisdiction of that office, for the education of physically handicapped pupils as defined in Article 1 (commencing with Section 56700) of Chapter 5 of Part 30 of Division 4 of Title 2, or Article 1 (commencing with Section 78700) of Chapter 5 of Part 48 of Division 7 of Title 3, and mentally retarded pupils as defined in Chapter 3 (commencing with Section 56500) of Part 30 of Division 4 of Title 2, or Article 1 (commencing with Section 78800) of Chapter 6 of Part 48 of Division 7 of Title 3.

The county superintendent of schools shall undertake the necessary measures to ensure that every pupil in the school district or community college district territory under his jurisdiction who is eligible to participate in any such special education program for physically handicapped pupils or mentally retarded pupils being provided in the territory, shall be afforded the opportunity to participate in an appropriate program.

The county superintendent of schools shall compile and maintain a tabulation of the number of all physically handicapped pupils and mentally retarded pupils enrolled in every category of the special education program in the school district or community college district territory under his jurisdiction and the schools in which such pupils are enrolled.

The county superintendent of schools shall maintain a current list of all physically handicapped pupils and mentally retarded pupils who have applied for but have been denied access to each category of the special education program in the school district or community college district territory under his jurisdiction.

It shall be the responsibility of the county superintendent of schools to render consultative and coordinative services to school districts under his jurisdiction maintaining special education programs for physically handicapped pupils and mentally retarded pupils, and to marshal and utilize, to the extent permitted by law, all private as well as public resources and services available to provide

education and training for physically handicapped and mentally retarded pupils.

### Article 3. Preparation of Courses of Studies

1720. The county superintendent of schools may, with the approval of the county board of education, and in cooperation with school districts and community college districts provide for the preparation of courses of study and the development of curriculum and instructional materials to be used in the elementary and secondary schools.

1721. The county superintendent of schools may, with the approval of the county board of education, enter into an agreement with the governing board of any school district and community college districts under his jurisdiction, other than specified in Section 1720, to provide for the preparation of courses of study by the county superintendent of schools for use in such districts. The agreement shall provide for the payment of the cost of services rendered.

1722. The county superintendent of schools, with the approval of the county board of education, and in cooperation with school districts and community college districts and the State Department of Education, or the board of governors, according to jurisdiction may participate in projects for developmental program planning.

1723. The services described in Sections 1720, 1721 and 1722, except clerical, accounting, and stenographic services, shall be performed by persons who hold a valid credential, or a life diploma based thereon, authorizing administrative services.

Any person who is, and continuously since September 7, 1955, has been, employed in the office of a county superintendent of schools and is performing the services described in this article may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed in his position.

### Article 4. Supervision of Instruction

1730. The county superintendent of schools may, with the approval of the county board of education, employ supervisors to supervise instruction in the elementary school districts under his jurisdiction which had less than 901 units of average daily attendance during the preceding fiscal year and in the elementary schools of unified school districts under his jurisdiction which had less than 1,501 units of average daily attendance during the preceding fiscal year. The services of supervisors shall be made available in such elementary and unified districts in which adequate supervision of instruction is not being provided by the district.

1731. The county superintendent of schools may, with the approval of the county board of education, enter into an agreement with the governing board of any elementary school district under his jurisdiction for the supervision of instruction in the district by the

county superintendent of schools. The agreement shall provide for the payment of the cost of providing the supervision of instruction. The county superintendent of schools shall transfer from the funds of the district to the county school service fund the amounts set forth in the agreement.

1732. The services described in Sections 1730 and 1731 shall be performed by persons who hold a valid credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing authorizing such service.

#### Article 5. Supervision of Attendance

1740. The county superintendent of schools may, with the approval of the county board of education, employ personnel to supervise the attendance of pupils in elementary school districts under his jurisdiction which had less than 901 units of average daily attendance during the preceding fiscal year, in high school districts under his jurisdiction which had less than 301 units of average daily attendance during the preceding fiscal year, and in unified school districts under his jurisdiction which had less than 1,501 units of average daily attendance during the preceding fiscal year, if the districts are not served by any district supervisor of attendance.

1741. The county superintendent of schools may, with the approval of the county board of education, provide for the supervision of the attendance of pupils in school districts under his jurisdiction other than specified in Section 1740. The county superintendent of schools shall transfer from the funds of the district to the county school service fund an amount equal to the actual cost of providing for the supervision of attendance.

1742. The services described in Sections 1740 and 1741 shall be performed by persons who hold a valid credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing authorizing performance of the service.

#### Article 6. Supervision of Health

1750. The county superintendent of schools may, with the approval of the county board of education, employ one or more supervisors of health, as supervisors of health are defined in Section 49420, to provide health services to pupils in elementary school districts under his jurisdiction which had less than 901 units of average daily attendance during the preceding fiscal year, to pupils in high school districts under his jurisdiction which had less than 301 units of average daily attendance during the preceding fiscal year, and to pupils in unified school districts under his jurisdiction which had less than 1,501 units of average daily attendance during the preceding fiscal year.

1751. In lieu of employing supervisors of health, the county superintendent of schools may, with the approval of the county

board of education, contract with the board of supervisors of the county in which he holds office, or with any local health district located wholly or partially within such county, for the provision of health services by employees of the county health department or local health district to pupils in the school districts specified in Section 1750.

1752. The county superintendent of schools may, with the approval of the county board of education, enter into an agreement with the governing board of any school district under his jurisdiction for the provision of any or all health services to the district by the county superintendent of schools. The agreement shall provide for the payment of the cost of providing the services. The county superintendent of schools shall transfer from the funds of the district to the county school service fund the amounts set forth in the agreement.

1753. The services described in Section 1750, 1751, and 1752 shall be performed by persons who hold a valid health and development credential, or life diploma based thereon, or a services credential with a specialization in health issued by the State Board of Education or Commission for Teacher Preparation and Licensing; provided, however, that a psychologist may be employed to perform psychological services or may perform psychological services under contract if he is the holder of a valid school psychologist credential issued by the State Board of Education.

1754. A supervisor of health employed by the county superintendent of schools shall perform such duties in connection with the supervision of health of pupils as are prescribed by the county superintendent of schools. All rules governing health services provided pursuant to Sections 1750, 1751, or 1752 shall be made by the county superintendent of schools.

#### Article 7. Provision of Guidance Services

1760. The county superintendent of schools may, with the approval of the county board of education, employ personnel to provide necessary guidance services to pupils in elementary school districts under his jurisdiction which had less than 901 units of average daily attendance during the preceding fiscal year, in high school districts under his jurisdiction which had less than 301 units of average daily attendance during the preceding fiscal year, and in unified school districts under his jurisdiction which had less than 1,501 units of average daily attendance during the preceding fiscal year; provided, adequate guidance services are not being furnished by the district.

1761. The county superintendent of schools may, with the approval of the county board of education, enter into an agreement with the governing board of any district for the provision of guidance services in the district by the county superintendent of schools. The agreement shall provide for the payment by the district of the cost

of providing the guidance services. The county superintendent of schools shall transfer from the funds of the district to the county school service fund the amounts set forth in the agreement.

1762. The services described in Section 1760 and 1761 shall be performed by persons who hold a valid credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing authorizing performance of the services.

#### Article 8. Provision of Library Services

1770. (a) The county superintendent of schools may, with the approval of the board of supervisors and the county board of education, agree with the county librarian to take over all existing contracts for supplementary books and other material adopted for the course of study between the school districts or community college districts and the county librarian entered into pursuant to the provisions of Sections 18130 to 18139, inclusive. Thereafter the county superintendent of schools shall generally perform such library services for the school districts or community college districts as were theretofore performed by the county library.

(b) After the above agreement has been entered into, the governing board of any district which had not yet joined the county library may enter into an agreement with the county superintendent of schools for the performance of school library services upon such terms and conditions as are fixed in the contracts or agreements.

(c) Whenever the county superintendent of schools performs school library services for any district, the provisions of Sections 18130 to 18139, inclusive, so far as applicable, shall control. The county superintendent shall employ a librarian holding a valid credential authorizing services as a librarian issued by the State Board of Education or Commission for Teacher Preparation and Licensing. He shall also employ such assistants as may be necessary to carry on this service. The cost of the salaries of such librarian and assistants, and the other necessary expenses of maintenance of the library, including necessary supplies, equipment, and books, may be paid from the county school service fund.

1771. (a) The county superintendent of schools of any county in which no county library is maintained may, with the approval of the county board of education, establish and maintain a county school library service for such elementary school districts of the county as elect to participate in such service.

(b) Upon the governing board of any elementary school district electing to participate in such service, the governing board of the district shall enter into an agreement with the county superintendent of schools, and the provisions of Sections 18130 to 18139, inclusive, shall control and be applicable in the same manner as they apply to a school district which enters into an agreement for school library services from the county library.

(c) The county superintendent of schools shall have the same

powers, duties, responsibilities, and jurisdiction with respect to the furnishing and performance of library services to elementary school districts which have elected to participate in the county school library service as may be exercised by a county library with respect to school library services.

(d) Whenever the county superintendent of schools establishes and maintains a county school library service pursuant to subdivision (a) of this section, he shall employ a librarian holding a valid credential authorizing service as a school librarian issued by the State Board of Education or Commission for Teacher Preparation and Licensing.

(e) The county superintendents of schools of two or more contiguous counties which have established county school library services under the provisions of this section may cooperate with each other and to that end may enter into agreements with each other, and may do any and all things necessary or convenient to aid and cooperate in carrying out the provisions of this section.

1772. The county superintendent of schools may, with the approval of the county board of education, agree with the proper authorities of the county to transfer funds from the county school service fund to the county library for the purchase of such books and other materials as are adopted by the body authorized to adopt courses of study for the school districts of this county.

1773. The county superintendent of schools of any county maintaining one or more emergency elementary schools may, if the county maintains a county library, enter into an agreement with the proper authorities of the county to provide school library services in each of the schools under such terms and conditions as may be agreed upon. The agreement may, among other matters, provide for the payment by the county superintendent of schools to the proper authorities for the use of the county library from the county school service fund of such money at such times as may be agreed upon. All money transferred shall be used solely by the authorities of the county library for the purchase of books and other materials as may be adopted by the county board of education and for the care and distribution of such books and other materials to the schools.

1774. (a) The county superintendent of schools may establish a county teachers' library and expend from the county school service fund such amounts as are necessary for the purchase of books therefor and for the payment of the necessary expenses of maintenance thereof.

(b) If there is a county library in any county, the county superintendent of schools may enter into an agreement with the county library for the transfer to it of all books and other property belonging to the county teachers' library and may order such sums to be transferred from the county school service fund as are necessary for expenditure for the purchase and maintenance of books of professional interest to teachers. Thereupon the teachers' library shall be administered as a part of the county library.

1775. Whenever the county superintendent of schools assumes responsibility for the establishment of a library or the performance of library services pursuant to this article, the county superintendent shall, on or before August 31st, in each year, report to the State Department of Education on the condition of the libraries under his supervision, for the year ending June 30th preceding. The reports of the superintendent shall, in addition to other matters deemed expedient by the librarian and the superintendent, contain such statistical and other information as is deemed desirable by the State Department of Education. For this purpose the State Department of Education may send to the several county superintendents or librarians instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

#### Article 9. Conservation and Training Program

1780. The county superintendent of schools, with the approval of the county board of education, or the county superintendents of two or more counties, jointly may contract with the United States, the State of California, any city, county, city and county or any combination thereof for the joint operation and maintenance of programs in youth conservation and training or for assistance in their operation and maintenance.

1781. Whenever the county superintendent of schools enters into a contract authorized by Section 1780 he may employ youths who reside in the county to help in carrying out the terms of the contract. The county superintendent of schools may seek the advice of the governing boards of districts maintaining high schools in the county to select youth to be employed.

1782. The county superintendent of schools may with the approval of the county board of education provide the coordination services authorized by Section 1703 in connection with meeting the requirements of a contract.

1783. The county superintendent is authorized to perform any function necessary in meeting the requirements of a contract and shall pay for the performance of such functions from funds paid by the agency with whom he contracts, or from funds contributed under law by other individuals or agencies.

1784. Funds received by a county superintendent of schools under a contract entered into pursuant to Section 1780 or contributed to the purposes of this article shall be deposited in the county school service fund of the county. The payment for performance of necessary functions under such a contract shall be paid from the county school service fund of the county.

#### Article 10. Technical, Agricultural and Natural Resource Conservation Schools

1790. The Legislature finds and declares: (1) that young people

who have dropped out of high school, thereby failing to receive a minimum education, are faced with limited opportunities and employment barriers because of their lack of training and skills; (2) that such young people comprise a disproportionately large segment of the unemployed or unemployables in this state; (3) that such young people are disproportionately involved in juvenile delinquency and youth offenses; (4) that such young people comprise a disproportionate share of those on the welfare rolls; (5) that there is an increasing shortage of the skilled and trained workers needed because of rapid technological change; (6) that many such young people by aptitude are not suited for purely academic studies; (7) that many such young people would benefit from technical, agricultural and natural resource conservation training so as to become independent, productive workers; and (8) that such technical, agricultural and natural resource conservation training would provide skilled workers needed by our rapidly developing technology.

It is the intent and purpose of the Legislature to encourage the establishment of technical, agricultural and natural resource conservation schools in those areas of the state where they are needed in order to reduce the number of school dropouts, combat juvenile delinquency, and to provide more skilled and trained workers. The provisions of this article shall be liberally construed to carry out these intents and purposes.

1791. The county superintendent of schools, with the approval of the county board of education, may establish and operate a technical, agricultural, and natural resource conservation school, or schools, for the purposes described in Section 1790.

1792. The operation of technical, agricultural and natural resource conservation schools shall be under the management and control of the county board of education, which board shall have in reference to the schools the same powers and duties which are now or may hereafter be assigned by law to a governing board for the management of other public schools.

1793. Any county board of education having management and control of a technical, agricultural and natural resource conservation school pursuant to this article may make such special rules and regulations for the operation of such school as are consistent with the provisions and purposes of this article and not contrary to law. Such governing board may provide for the maintenance, operation and supervision of such school, and the technical instruction of students. The board may acquire by purchase, gift, conditional or otherwise, or by the exercise of the power of eminent domain, the site or sites and provide for the construction of suitable buildings thereon. The board may also accept any gifts or donations and make all contracts for the equipment, maintenance and operation of such schools as may be necessary or advisable.

1794. Schools established pursuant to this article may be operated on a full-time placement care basis and facilities may be provided for

children in attendance to live at such schools if such arrangements are deemed appropriate. The county superintendent of schools maintaining such schools may provide necessary transportation to the pupils in attendance, if full-time placement care is not deemed in the best interest of the pupil.

1795. The county board of education maintaining one or more schools established pursuant to this article shall appoint a board of admissions to these schools consisting of a representative of the welfare department, a representative of the juvenile probation department, two school district administrators, one member of the lay public, and designated members of the staff of the county superintendent of schools. The president of the county board of education and the county superintendent of schools shall be ex officio members of the board of admissions. The board of admissions may enlist the assistance of any other qualified persons for consultation, evaluation of the needs of students, and advice regarding the admission program. The chairman of the board of admissions shall be appointed by the county superintendent of schools.

If two or more counties agree to operate such a school jointly each county shall select its own board of admissions as otherwise provided in this section. Any reference in this article to the board of admissions is to the board established by the county in which the child is resident if the school is jointly operated by two or more counties.

1796. Admission to, and continuation of attendance at, a school established pursuant to this article shall be only upon the recommendation of the board of admissions.

1797. The board of admissions, or persons designated by it, shall investigate the case of any student whose name is submitted in writing accompanied by a signed request for consideration for admission, and shall make recommendations in each case. The board of admissions shall observe the progress of each student for the purpose of recommending continuance or discontinuance of his attendance.

1798. Subject to the provisions of Section 1796, the county board of education maintaining a school established pursuant to this article shall admit to the school only minors from the age of 13 to 18 years, inclusive, who are qualified for technical or prevocational training by satisfactory completion of the eighth grade and a reasonable exhibition of aptitude, who are residents of the county having jurisdiction over the school. Such students may be considered for the school by the board of admissions upon the recommendation of the county superintendent of schools or the chief administrative officer of the school last attended by the minor. Students who are not residents of the county having jurisdiction over the school may be admitted to the school if approved by the board of admissions, provided that the county of residence shall pay by agreement to the governing board of the school all actual expenses of operation and instruction, including building and grounds, minus state and federal apportionments, not received from contracts with the parents or

guardians of the minor, or from the minor's school district of residence.

No minor shall be admitted to a technical, agricultural and natural resource conservation school without the written approval of his parent or guardian, or retained in such school following withdrawal of approval by his parent or guardian.

Juvenile court judges are hereby empowered to refer from their courts to the board of admissions of the county for study as to qualifications for admittance as a student, any minor brought before them who in their opinion can properly qualify for admission. Upon determination of the board of admissions that such minor is otherwise qualified for admission, if the juvenile court judge enters an order waiving jurisdiction of such minor for the purpose of allowing the minor to attend such technical, agricultural or natural resource conservation school, subject to consent by the minor's parent or guardian as provided in this section, the minor shall be admitted to the school.

1799. A program shall be outlined for each student admitted to the school. The board of admissions shall review the order of admission at frequent intervals, and at least twice each year, and upon review may recommend the continuance or termination of the stay of any student in the school.

1800. Subject to Section 1801 the course of study for the students and the methods used in planning the course of study for a technical, agricultural and natural resource conservation school shall be established by the county board of education and shall emphasize technical, agricultural, natural resource conservation and related subjects, giving consideration to job opportunities present and future, available in the county. Facilities and equipment for prevocation and trade training shall be provided where appropriate.

(Amended by Stats. 1976, Ch 1011.)

[ORIGINAL SECTION]

1800. Subject to Section 1801 the course of study for the students and the methods used in planning the course of study for a technical, agricultural and natural resource conservation school shall be established by the county board of education and shall emphasize technical, agricultural, natural resource conservation and related subjects, giving consideration to job opportunities present and future, available in the county. Facilities and equipment for prevocation and trade training shall be provided were appropriate

1801. The course of study shall include:

- (a) Two hours per week on the average of American history emphasizing American institutions and ideals, and California history.
- (b) Two hours per week on the average of world history, the history of western civilization, and world geography.
- (c) One hour per week on the average of American government emphasizing principles of the Constitution and the Declaration of Independence, and the principles of state and local government

under the Constitution of this state.

(d) Five hours per week on the average in the use of English, designed to teach the student to read rapidly and perceptively, to write clearly and correctly, and to present ideas orally. Such instruction shall include the principles of grammar and punctuation as instruments of reading and writing. Also a core of reading designed to familiarize the student with the variety of literary forms and to improve his reading ability shall be taught.

(e) A program to develop and maintain an adequate level of physical fitness.

1802. A student at a technical, agricultural, and natural resource conservation school may be assigned part time to a vocational course in a place of employment. Such courses may be developed through the cooperation of the county officials, the board of admission, school personnel, local employers and local labor organizations. Local representatives of the Department of Employment Development, the Department of Industrial Relations and the Division of Apprenticeship Standards, shall cooperate in the development of such courses.

Such vocational training shall be offered subject to the provisions of Article 2 (commencing with Section 1290) of Chapter 2 of Part 4, Division 2 of the Labor Code.

1803. The governing board of a school established pursuant to this article may require members of the staff to reside in the school where desirable, and may furnish suitable quarters, furniture, food, supplies, and laundry for staff members and their families as in its judgment are required in the best interests of the school.

1804. Each technical, agricultural and natural resource conservation school shall conduct a followup study and advise parents and school authorities regarding courses of study and treatment in the interests of the normal development of the student.

1805. The cost of securing sites or constructing and equipping buildings and the cost of housing and equipment in technical, agricultural, and natural resource conservation schools, including but not restricted to, the necessary dormitories, dining halls, and other living quarters for pupils and employees of the school shall be a charge against the funds of the county maintaining the school. Such buildings shall be deemed "school buildings" within the meaning of Section 15100.

1806. For purposes of schools established pursuant to this article the county board of education may direct the county superintendent of schools to call an election and submit to the voters of the county the question of whether the board of supervisors shall levy and collect the amount of money required to be raised by a countywide tax for the maintenance of the schools. Upon approval of a majority of the voters of the county, the county superintendent of schools, with the approval of the county board of education, shall certify to the county auditor and the county board of supervisors, on or before July 15th of each year, the amount of money required to be raised

by a countywide tax for the maintenance of the schools. The board of supervisors shall levy and collect the required amount in the same manner as other county taxes are levied or collected. The tax shall not exceed five cents (\$0.05) per each hundred dollars (\$100) of assessed valuation for the purposes of Section 1805 and this section. The amount received from this tax shall be deposited in the county school service fund.

The governing board may employ such certificated and noncertificated employees as are necessary in the judgment of the board for the proper conduct of the school. The expenses of lodging and boarding pupils, where applicable, residing within the buildings of a technical, agricultural and natural resource conservation school shall be paid from the sums received from contracts with the child's parents or guardians, from the funds of the county within which the school is located, and from the funds of the county of residence of the student.

1807. The school attendance of such students shall be credited to the county school service fund of the county superintendent of schools providing the education for the students; and State School Fund apportionments on account of such attendance shall be made to the fund in the amount, per unit of average daily attendance, as would be computed for the foundation program of a high school under Section 41712.

1808. A student shall be deemed to be a resident of the high school district in which he lived at the time of his admission to the program and the excess cost for a school year of educating such student shall be paid by the high school district of which he is a resident to the county superintendent who is providing education for the students. The excess cost shall be determined by dividing the total current expense of education as defined in Section 41372 and also excluding expense of boarding and lodging during such school year by the total number of units of average daily attendance in such school or classes during such school year, less state and federal apportionments on account of such average daily attendance.

Average daily attendance of students shall be computed, for purposes of this article, by dividing the number of days such student attended the schools or classes by the number of days that the schools or classes were taught, except that with respect to a student attending such schools or classes for more than 175 days in a school year, the average daily attendance shall be computed by using the divisor of 175.

For purposes of computing average daily attendance 180 minutes of class attendance shall be deemed to constitute a schoolday, and no more than 15 hours of class time per week shall be considered.

Not later than July 15th of each year, the superintendent of schools of the county providing education for students shall forward his claim for the excess expense reimbursement to the high school district of residence of each student during the preceding school year, and the governing board of such high school district shall upon receipt

thereof pay such claims.

The governing board of the high school district to which the claim is presented may include in its budget the amount necessary to pay the claim, and, if the amount is included in the budget, the board of supervisors shall levy a school district tax to raise the amount. The school district tax shall be in addition to any other school district tax authorized by law to be levied. All amounts raised by such a tax shall be expended only for the purposes of this article.

1809. This article may be cited as the "Garrigus-Lagomarsino Act."

#### Article 11. Provision of Audiovisual Services

1830. (a) The county superintendent of schools may, with the approval of the county board of education, establish, conduct, and maintain facilities, for use in the elementary and secondary schools of the school districts under his jurisdiction that elect to participate in the use of the facilities, which provide for audial and visual curriculum materials, including the necessary salaries, supplies, materials, apparatus, and equipment and other necessary expenses.

(b) The county superintendent of schools shall, with the approval of the county board of education, enter into an agreement with the governing board of any school district or community college district electing to participate which shall provide for payment by the district for the use of audiovisual facilities. The county superintendent of schools shall, with the approval of the county board of education, prescribe the method for determining the amount to be paid for the use of the facilities, but in no event shall the total payments made to the county superintendent of schools of any county by the districts of that county be less than one-half of an amount equal to the total cost of the use of the facilities provided to the districts electing to participate, less any restricted remaining balance and any amount received by the county superintendent of schools under the provisions of the National Defense Education Act of 1958 (Public Law 864, Eighty-fifth Congress) or under any similar provisions of any other act of Congress, except that the Superintendent of Public Instruction may provide county school service fund money in addition to the established ratio of support in those counties in which he determines that sparsity of population increases operational costs.

(c) Films and filmstrips shall be adopted by the county board of education before they are purchased by the county superintendent of schools.

1831. The services described in Section 1830, except clerical, accounting, and stenographic services, shall be performed by persons who hold a valid credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing or the Board of Governors of the California Community Colleges of one or more of the types specified in Section 1704.

Any person who is employed in the office of a county superintendent of schools on the effective date of this section and is performing any of the services described in this article may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed in his position.

1832. The county superintendent of schools may, with the approval of the county board of education, enter into an agreement with the state, the Federal Bureau of Indian Affairs, any political subdivision, or any agency of the state or of any political subdivision, to conduct and maintain distribution among schools of districts under the jurisdiction of the county superintendent of schools, under such conditions as are agreed upon, of aural and visual instruction materials and apparatus approved by the constituted educational authorities. The state, any political subdivision, or any agency of the state or of any political subdivision may enter into any agreement with a county superintendent of schools authorized by this article.

1833. The agreement may, among other matters, provide for the payment by the county superintendent of schools, at such times as are agreed upon, from the county school service fund to the state, political subdivision, or agency, of money for the distribution of materials and apparatus among the schools under his jurisdiction. All money transferred shall be used by the authorities of the state, political subdivision, or agency solely for the acquisition of aural and visual materials and apparatus as may be designated by the constituted educational authorities and for the care and distribution to schools of the county of the materials and apparatus.

1834. The county superintendent of schools and the state or any political subdivision, or any agency of the state or of any political subdivision, may acquire materials and apparatus for distribution pursuant to this article, by purchase, rental, lease, loan, or donation, if the materials and apparatus have been adopted as required by law.

1835. The governing board of any school district or community college district may contract with the county superintendent of schools having jurisdiction over the district, with the state, any political subdivision, or any agency of the state or of any political subdivision, for the rendering to the schools of the district of any service authorized by this article, and may pay for the service out of any funds of the district.

All funds paid by a school district or community college district to a county superintendent of schools for services rendered to the schools of the district shall be deposited in the county school service fund.

1836. The governing board of any school district, or community college district, or the county superintendent of schools acting with its permission and on behalf of such a board, or boards, may enter into contracts, either alone or in cooperation with other districts, for the purpose of participating in or the procuring of television broadcasts for use in the educational program of the schools.

The governing board of any school district, a community college

district, or the county superintendent of schools, either alone or in cooperation with other districts or other county superintendents of schools, or with nonprofit corporations operating educational television stations as defined in Section 225.5 of the Revenue and Taxation Code, may purchase broadcast time over, and may own, lease, and operate, television transmitting facilities for use in providing instructional services, teachers' in-service educational services, which the governing board or the county superintendent of schools is otherwise authorized to provide, and may provide necessary services in connection therewith. The governing board of a school district, a community college district, or the county superintendent of schools, or a nonprofit corporation with a district or with a county superintendent of schools, which is the owner or lessee of television transmitting facilities may sell broadcast time, on a reimbursement basis, to any other school districts or county superintendent of schools for instructional services and teachers' in-service educational services upon such terms as are mutually agreed upon.

The governing board of a school district, a community college district, and a county superintendent of schools may accept grants-in-aid from any public or private source in carrying out the purposes of this section.

When television transmitting facilities owned, leased or operated by the governing board of a school district, a community college district, or county superintendent of schools, either alone or in cooperation with other districts or other county superintendents of schools pursuant to this section or a nonprofit corporation operating an educational television station, are not in use for providing instructional services or teachers' in-service educational services, such facilities may be used for transmitting community educational television programs if such use does not require the expenditure of any additional public funds of a school district or a county superintendent of schools.

For purposes of this section, the term "school district" shall include any school district library district formed under the provisions of Chapter 3 (commencing with Section 18300) of Part 11 of this division.

## Article 12. Education of Physically Handicapped Pupils

1850. The county superintendent of schools shall, under the direction of the county board of education, establish and maintain programs for physically handicapped pupils who come within the provisions of Section 56700, 56701, 78701, or 78702, including orthopedic or other health-impaired, visually handicapped, aurally handicapped, or multihandicapped, and who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 8,000 in the elementary schools of the districts or in unified or high school districts which have an average

daily attendance of less than 8,000 in the high schools of the districts, whenever such districts have not provided nor entered into contract with other districts to provide such programs.

Such program shall, with the approval of the county board of education, be provided in one or more of the following ways:

(a) In special schools or classes of elementary and secondary grade and in remedial classes of elementary and secondary grade.

(b) By the employment of emergency teachers to provide special instruction in the regular schools of the districts of the county.

(c) By the maintenance of special classes of secondary grade.

(d) By the employment of home instructors to give individual instruction in the home or at the bedside in institutions, and by the employment of instructors to provide remedial instruction for physically handicapped pupils in regular, special day, and special training schools or classes which he may be authorized to conduct, and by the employment of instructors to provide individual instruction for pupils with speech disorders or defects who are at least three years of age for the purpose of remedying such speech disorders or defects.

(e) By cooperation with the Department of Rehabilitation in the provision of individual instruction and coordination services.

(f) By contract with the county superintendent of schools of another county or with the governing board of any school district.

(g) In integrated programs of instruction of elementary or secondary grade.

(h) By the employment of instructors to provide individual instruction, subject to the provision of Section 56716 or 78715, in schools or in the homes of pupils who are deaf or hard of hearing, as determined by the State Board of Education, and between the ages of three and six years of age.

The county superintendent of schools may establish and maintain programs for the physically handicapped pupils who come within the provisions of Section 56700, 56701, 78701, or 78702 and who reside in any district within the county with the approval of the county board of education and the agreement of the local governing board of the school district. Such programs may be carried out in accordance with subdivisions (a), (c), (f), (g), and (h).

Such schools and classes shall be established at centrally located places, and the county superintendent of schools shall provide transportation to the pupils attending them. In an instance where it would be impractical because of the transportation distances existing to bring a sufficient number of physically handicapped pupils within the meaning of Section 56700, 56701, 78701, or 78702 together in one place to form a school or special class, the county superintendent of schools, upon the annual approval of the Superintendent of Public Instruction, may defer compliance with the provisions of this section for the year in question.

Any elementary or unified school district which has an average daily attendance of less than 8,000 in the elementary schools of the

district and any unified or high school district which has an average daily attendance of less than 8,000 in the high schools of the district, with the approval of the county superintendent of schools, may establish and maintain programs for the physically handicapped who come within the provisions of Section 56700, 56701, 78701, or 78702.

The county superintendent of schools required to provide for the education of physically handicapped pupils residing in the county who come within the provisions of Section 56700, 56701, 78701, or 78702 may, with the approval of the Superintendent of Public Instruction, enter into agreements with an elementary, unified, or high school district for the latter to provide for the education of such physically handicapped pupils.

1851. A county superintendent of schools, with the approval of the county board of education, and any school district or community college district within his jurisdiction may enter into an agreement for the acquisition and utilization of mobile classrooms for the education of physically handicapped pupils enrolled in integrated programs, as set forth in Section 56702 or 78703, and the education and therapy of speech-handicapped pupils, as set forth in Section 56701 or 78702.

Such agreement may provide for the acquisition of mobile classrooms by a district and the rental, lease, or transfer of mobile classrooms to the county superintendent of schools.

Mobile classrooms may be used to provide services in any school district served by the county superintendent of schools, or as contracted for to any public or private agency authorized to provide and contract for such services.

1852. The county superintendent of schools may, with the approval of the county board of education, enter into an agreement with the governing board of any school district under his jurisdiction for the education in remedial classes of physically handicapped pupils who are excused from regular classes for a portion of a class period. The cost of the education to the school district shall not exceed the actual cost thereof to the county superintendent of schools.

1853. Each county superintendent of schools providing for the education of physically handicapped children pursuant to this article shall report annually to the Superintendent of Public Instruction on forms provided by him the total average daily attendance of physically handicapped pupils by types of instruction provided, the cost of educating the pupils, and such other information as may be required, for each elementary and high school district in which the education is provided.

1854. The Superintendent of Public Instruction shall prescribe the procedures for qualifying for and shall determine the amount of the allowances for special regular day classes and for authorized instruction in other than special regular day classes of physically handicapped pupils.

1855. For purposes of Section 1850, the average daily attendance

of the elementary schools of the district shall be computed by excluding the average daily attendance of pupils attending the seventh and eighth grades of a junior high school maintained by a high school district.

1856. The county superintendent of schools shall, with the approval of the county board of education, certify to the county auditor and the county board of supervisors, on or before August 15th of each year, the amount of money required to be raised by a county tax for the identification and education of physically handicapped pupils who come within the provisions of Section 56700, 56701, 78701, or 78702 and for the rental of property and the purchase of equipment by the county superintendent of schools for the schools or classes for such pupils.

The county superintendent of schools, when actually maintaining schools or classes for handicapped pupils for districts with an average daily attendance in excess of 8,000 in the elementary or secondary schools of the district when such education is by agreement of the governing board of such school district, shall with the approval of the county board of education certify to the county auditor and the county board of supervisors on or before August 15th of each year the amount of money required to be raised by tax for the education of physically handicapped pupils who come within the provisions of Section 56700, 56701, 78701, or 78702 under the same conditions and circumstances as an amount of money is certified and the tax levied for districts with less than 8,000 average daily attendance in the elementary or secondary schools of the district for the education of such physically handicapped pupils, but such tax in districts of more than 8,000 average daily attendance shall not include any amount for the education of physically handicapped pupils actually conducted by the local school district or for contract services of such education by another school district.

The amount shall be determined by subtracting from the total cost of the education of such pupils, including transportation, to the county superintendent of schools the total amounts to be apportioned by the Superintendent of Public Instruction to the county school service fund for the education of such physically handicapped pupils and by adding to the result the amount required for rental of property, the purchase of equipment, and capital outlay.

The board of supervisors shall, at the time of levying other county taxes, levy an identical rate of tax in all elementary or unified school districts which have an average daily attendance of less than 8,000 in the elementary schools in the district, and all unified or high school districts which have an average daily attendance of less than 8,000 in the high schools under the jurisdiction of the county superintendent of schools, and for which approval has not been granted by the county superintendent for the district to establish and maintain such classes for the education of physically handicapped pupils who come within the provisions of Section 56700, 56701, 78701, or 78702 upon the taxable property in such districts sufficient to produce such amounts.

The amount received from this tax shall be deposited in the county school service fund.

The tax shall be levied and collected on a current basis during the fiscal year on the basis of estimates of average daily attendance levels, assessed valuation levels, and the other factors involved. Excess amounts collected in any year may be applied to reduction of the tax in succeeding fiscal years, and the amount to be raised by the tax in any fiscal year may be increased by the amount of deficiency in the tax collected in prior fiscal years.

The Superintendent of Public Instruction shall adopt such rules and regulations as he may deem necessary to the implementation of this section.

### Article 13. Attendance of Handicapped Students

1870. The attendance of physically handicapped pupils instructed by the county superintendent of schools pursuant to Section 1850 shall be credited as follows:

(a) The attendance of elementary school pupils taught in emergency elementary schools and in special classes shall be credited to the emergency schools.

(b) The attendance of elementary school pupils given individual instruction in the home or at the bedside in institutions and of minors with speech disorders or defects who are at least three years of age and of minors who are deaf or hard of hearing and between the ages of three and six years and given individual instruction, subject to the provisions of Section 56716, in school or in the home or by cooperative arrangements with the Division of Vocational Rehabilitation of the State Department of Rehabilitation or in remedial classes or in integrated programs of instruction shall be credited to an emergency elementary school maintained for physically handicapped pupils, if such a school is maintained in the county, or if no such school is maintained in the county the attendance shall be credited to an emergency elementary school maintained in the county, but not to more than one emergency elementary school. If no emergency school is maintained in the county, the total number of days of attendance of pupils shall be divided by 175 to compute average daily attendance, and the average daily attendance so computed shall be credited to the county school service fund as attendance upon a single emergency elementary school for individual instruction of physically handicapped children.

(c) The attendance of pupils of secondary grade given individual instruction in the home or in institutions or by cooperative arrangement with the Division of Vocational Rehabilitation of the State Department of Rehabilitation, or instructed in special classes of secondary grade or in remedial classes or in integrated programs of instruction of secondary grade pursuant to Section 1850, shall be credited to the county school service fund.

(d) The attendance of pupils taught by emergency teachers in the

regular schools of the districts of any county shall be credited to the districts, except that the attendance of pupils taught by emergency teachers pursuant to Section 1852 in the regular elementary schools of the district of any county and the attendance of elementary pupils in remedial classes pursuant to Section 1850 shall be credited to the county school service fund in accordance with subdivision (b) of this section.

(e) The attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of a school district of another county, shall be credited to the county school service fund of the county, or district, in which the pupils are educated.

(f) If the county superintendent of schools maintains an integrated program of instruction as defined in Section 41864 or 84818 and contracts with a school district to provide instruction for part of the day in the regular classes of the district, the total attendance of pupils in such program shall be credited to the county school service fund at both the elementary and secondary levels.

(Amended by Stats 1976, Ch. 1011.)

[ORIGINAL SECTION]

1870 The attendance of physically handicapped pupils instructed by the county superintendent of schools pursuant to Section 1850 shall be credited as follows

(a) The attendance of elementary school pupils taught in emergency elementary schools and in special classes shall be credited to the emergency schools

(b) The attendance of elementary school pupils given individual instruction in the home or at the bedside in institutions and of minors with speech disorders or defects who are at least three years of age and of minors who are deaf or hard of hearing and between the ages of three and six years and given individual instruction, subject to the provisions of Section 56716, in school or in the home or by cooperative arrangements with the Division of Vocational Rehabilitation of the State Department of Rehabilitation or in remedial classes or in integrated programs of instruction shall be credited to an emergency elementary school maintained for physically handicapped pupils, if such a school is maintained in the county, or if no such school is maintained in the county the attendance shall be credited to an emergency elementary school maintained in the county, but not to more than one emergency elementary school. If no emergency school is maintained in the county, the total number of days of attendance of pupils shall be divided by 175 to compute average daily attendance, and the average daily attendance so computed shall be credited to the county school service fund as attendance upon a single emergency elementary school for individual instruction of physically handicapped children

(c) The attendance of pupils of secondary grade given individual instruction in the home or in institutions or by cooperative arrangement with the Division of Vocational Rehabilitation of the State Department of Rehabilitation, or instructed in special classes of secondary grade or in remedial classes or in integrated programs of instruction of secondary grade pursuant to Section 1850, shall be credited to the county school service fund

(d) The attendance of pupils taught by emergency teachers in the regular schools of the districts of any county shall be credited to the districts, except that the attendance of pupils taught by emergency teachers pursuant to Section 1852 in the regular elementary schools of the district of any county and the attendance of elementary pupils in remedial classes pursuant to Section 1850 shall be credited to the county school service fund in accordance with subdivision (b) of this section

(e) The attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of a school district of another county, shall be credited to the county district of another county, shall be

credited to the county school service fund of the county, or district, in which the pupils are educated.

(f) If the county superintendent of schools maintains an integrated program of instruction as defined in Section 41864 or 84818 and contracts with a school district to provide instruction for part of the day in the regular classes of the district, the total attendance of pupils in such program shall be credited to the county school service fund at both the elementary and secondary levels.

1871. The attendance of educationally handicapped pupils instructed by the county superintendent of schools pursuant to Section 56602 or 78602 shall be credited as follows:

(a) The attendance of elementary pupils taught in special classes maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency elementary school for special class instruction of such pupils. The attendance of pupils of secondary grade in special classes maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency secondary school for special class instruction for such pupils.

(b) The attendance of elementary pupils in learning disability groups maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency elementary school for learning disability group instruction of educationally handicapped pupils. The attendance of pupils of secondary grade in learning disability groups maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency secondary school for learning disability group instruction of educationally handicapped pupils.

(c) The attendance of elementary pupils given instruction in the home, hospital, or a regularly established licensed children's institution shall be credited to the county school service fund as attendance upon a single emergency elementary school for home, hospital, or a regularly established licensed children's institution instruction of educationally handicapped pupils. The attendance of pupils of secondary grade given instruction in the home, hospital, or a regularly established licensed children's institution shall be credited to the county school service fund as attendance upon a single emergency secondary school for home, hospital, or a regularly established licensed children's institution instruction of educationally handicapped pupils.

#### Article 14. Education of Mentally Retarded Pupils

1880. (a) The county superintendent of schools shall, under the direction of the county board of education, establish and maintain special training schools or classes for mentally retarded pupils who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 901 in the elementary schools of the district and who come within the provisions of Section 56501 or 78801. The schools and classes shall be established at centrally located places, and the county superintendent of schools shall provide transportation to the pupils attending them.

Any elementary or unified school district which has an average daily attendance of less than 901 in elementary schools of the district, with the approval of the county superintendent of schools, may establish and maintain special training schools or classes for mentally retarded pupils who come within the provisions of Section 56501 or 78801.

A county superintendent of schools may enter into an agreement by which a public school in a state adjacent to the county will provide

the education required under this subdivision. Attendance resulting from such an agreement shall be reported by the county superintendent of schools to the Superintendent of Public Instruction who shall allow the county superintendent the same amount per unit of average daily attendance as set forth in Section 41704 or Section 41712 and in Section 41884 or 84834. The school district in which a pupil being educated pursuant to such an agreement resides shall make the payments required by Section 1705. Any costs of the agreement in excess of the computed allowances and the payments made by the school district shall be included in the amount to be raised by a county tax pursuant to Section 1886.

(b) The county superintendent of schools may, with the approval of the county board of education, establish and maintain special training schools or classes for mentally retarded pupils who reside in the county and who come within the provisions of Section 56501 or 78801 and contract with an elementary or unified school district with an average daily attendance of 901 or more in the elementary schools of the district, or with a high school district with an average daily attendance of less than 901, subject to such terms and conditions as may be agreed upon. The contract shall be approved by the county board of education and shall require the district to pay to the county school service fund of the county in which the district is located all costs of the education of pupils which are in excess of the amounts apportioned from the State School Fund for the average daily attendance of such pupils.

Whenever a special training school or class is established under the provisions of this subdivision, the computations prescribed by Sections 41703 and 41711 shall not apply.

(c) The county superintendent of schools shall establish and maintain special training schools or classes for mentally retarded pupils who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 8,000 in the elementary schools of the district and in unified or high school districts which have an average daily attendance of less than 8,000 in the high schools of the district and who come within the provisions of Section 56515. Such schools and classes shall be established at centrally located places, and the county superintendent of schools shall provide transportation to the pupils attending them. In an instance where it would be impracticable because of the transportation distances existing to bring a sufficient number of mentally retarded pupils, within the meaning of Section 56515, together in one place to form a special training class, the county superintendent of schools upon the annual approval of the Superintendent of Public Instruction may defer compliance with the provisions of this section for the year in question.

Any elementary or unified school district which has an average daily attendance of less than 8,000 in elementary schools of the district and any unified or high school district which has an average

daily attendance of less than 8,000 in high schools of the district, with the approval of the county superintendent of schools, may establish and maintain special training schools or classes for mentally retarded pupils who come within the provisions of Section 56515.

A county superintendent of schools, required to provide for the education in special training schools or classes of mentally retarded pupils residing in the district who come within the provisions of Section 56515, may with the approval of the Superintendent of Public Instruction enter into agreement with an elementary, unified or high school district for the latter to provide for the education of such mentally retarded pupils.

(d) The county superintendent of schools may, with the approval of the county board of education, establish and maintain special training schools or classes for mentally retarded pupils who reside in the county and who come within the provisions of Section 56515 and agree with an elementary or unified school district with an average daily attendance of 8,000 or more in the elementary schools of the district and in unified or high school districts with an average daily attendance of 8,000 or more in the high schools of the district for the education by the county superintendent of schools of such pupils residing in such districts. Whenever a special training school or class is established under the provisions of this subdivision, the foundation program prescribed in Section 41704 for an elementary district with an average daily attendance of 901 or more shall apply for elementary schools, and the foundation program prescribed in Section 41712 shall apply for high schools.

1881. For purposes of Section 1880 the average daily attendance of the elementary schools of the district shall be computed by excluding the average daily attendance of pupils attending the seventh and eighth grades of a junior high school maintained by a high school district.

1882. In lieu of providing transportation to special training schools or classes maintained by a county superintendent of schools for mentally retarded pupils who come within the provisions of Section 56515 and who reside in elementary or unified school districts which have an average daily attendance of less than 8,000, the county superintendent of schools may, with the approval of the county board of education, pay to the parents or guardians of any such mentally retarded pupil the cost of food and lodging for the minor at a place convenient to a special training school or class maintained by the county superintendent, by the governing board of a school district within the county, or by a county superintendent of another county.

1883. Each county superintendent of schools maintaining special training schools or classes for mentally retarded minors pursuant to subdivision (c) of Section 1880 may limit the number of minors to be admitted to such schools or classes. Any minor who becomes 18 years of age while in attendance upon a special training school or class shall be permitted to continue to attend thereon for the remainder of the

time the school or class is maintained during the then current school year.

1884. Any county superintendent of schools otherwise required or authorized to maintain special training schools and classes under Section 1880 for mentally retarded pupils may provide for the education of such pupils in, and for the transportation of such pupils to, special training schools or classes maintained by a school district under Sections 56500 to 56534, inclusive, or Sections 78800 to 78820, inclusive, or by a county superintendent of schools under this article, subject to such terms and conditions as may be agreed upon. The agreement shall be approved by the county board of education.

1885. In lieu of entering into an agreement for the transportation of mentally retarded pupils by the school district or county superintendent of schools, in the special training schools and classes of which the education of such pupils is provided under Section 1884 or 56529, the school district or county superintendent of schools of the county required to provide for their education may provide such transportation.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

1885. In lieu of entering into an agreement for the transportation of mentally retarded pupils by the school district or county superintendent of schools, in the special training schools and classes of which the education of such pupils is provided under Section 1884, 56529, or 78815, the school district or county superintendent of schools of the county required to provide for their education may provide such transportation.

1886. The county superintendent of schools shall, with the approval of the county board of education, certify to the county auditor and the county board of supervisors, on or before August 15th of each year, the amount of money required to be raised by a county tax for the education of mentally retarded pupils who come within the provisions of Section 56501 or 78801 and for the rental of property and the purchase of equipment by the county superintendent of schools for special training schools and classes for such pupils. The amount shall be determined by subtracting from the total costs of the education of such pupils, including transportation, to the county superintendent of schools (1) the total of any balances remaining to be expended for this purpose, and (2) the total amount to be apportioned by the Superintendent of Public Instruction to the county school service fund for the education of mentally retarded pupils who come within the provisions of Section 56501 or 78801 and by adding to the result the amount required for rental of property and purchase of equipment.

The county auditor and the county board of supervisors shall determine the tax necessary to produce the amount certified when levied upon the taxable property of all the districts under the jurisdiction of the county superintendent of schools which have not been approved by the county superintendent of schools to maintain such schools or classes. The board of supervisors shall at the time of

levying other county taxes levy the tax so determined in each school district or community college district which had during the preceding fiscal year not been approved by the county superintendent of schools to maintain such schools or classes, except that the tax levied shall not exceed ten cents (\$.10) for each one hundred dollars (\$100) of assessed valuation and shall be levied notwithstanding the provisions of law prescribing a maximum tax rate.

The amount received from the tax shall be deposited in the county school service fund.

In the event the amount received from the tax levied is less than the amount certified by the county superintendent of schools the difference shall, with the approval of the Superintendent of Public Instruction, be paid the county superintendent of schools from the county school service fund contingency account pursuant to Section 14055.

1887. The county superintendent of schools shall, with the approval of the county board of education, certify to the county auditor and the county board of supervisors, on or before August 15th of each year, the amount of money required to be raised by a county tax for the education of mentally retarded pupils who come within the provisions of Section 56515 and for rental of property and the purchase of equipment by the county superintendent of schools for special training schools or classes for such pupils. The amount shall be determined by subtracting from the total cost of the education of such pupils, including transportation, to the county superintendent of schools the total amount to be apportioned by the Superintendent of Public Instruction to the county school service fund for the education of such mentally retarded pupils and by adding to the result the amount required for rental of property and the purchase of equipment. The board of supervisors may include in such amount a sum for capital outlay.

The board of supervisors shall, at the time of levying other county taxes, levy an identical rate of tax in all elementary or unified school districts which have an average daily attendance of less than 8,000 in the elementary schools in the district, and all unified or high school districts which have an average daily attendance of less than 8,000 in the high schools of the district under the jurisdiction of the county superintendent of schools, and for which approval has not been granted by the county superintendent for the district to establish and maintain such classes for the education of mentally retarded pupils who come within the provisions of Section 56515 and any school district with an elementary or high school average daily attendance of more than 8,000 for which the county superintendent maintains such class upon the taxable property in such districts sufficient to produce an amount equal to all costs of the education of such pupils which are in excess of the amounts apportioned from the State School Fund for the average daily attendance of such pupils. The amount received from this tax shall be deposited in the county school service fund.

The tax shall be levied and collected on a current basis during the fiscal year on the basis of estimates of average daily attendance levels, assessed valuation levels, and the other factors involved. Excess amounts collected in any year may be applied to reduction of the tax in succeeding fiscal years, and the amount to be raised by the tax in any fiscal year may be increased by the amount of deficiency in the tax collected in prior fiscal years.

1888. (a) The Superintendent of Public Instruction shall reduce the allowances to county school service funds to be made in a fiscal year under Section 14057 by an amount determined by: (1) multiplying sixty cents (\$0.60) by each one hundred dollars (\$100) of the total assessed valuation of all the elementary or unified school districts for whom the county superintendent of schools maintains schools or classes in grades kindergarten through eight, inclusive, pursuant to Section 1850; (2) dividing the product so derived by the total average daily attendance of pupils included in the foundation program computed for the districts for pupils in grades kindergarten through eight, inclusive, in the elementary or unified school districts for whom the county superintendent of schools maintains schools or classes in grades kindergarten through eight, inclusive, pursuant to Section 1850; and (3) multiplying the quotient so derived by the average daily attendance of pupils attending the special schools or classes maintained by the county superintendent of schools in grades kindergarten through eight, inclusive, pursuant to Section 1850.

(b) The Superintendent of Public Instruction shall reduce the allowances to county school service funds to be made in a fiscal year under Section 14058 by an amount determined by: (1) multiplying fifty cents (\$0.50) by each one hundred dollars (\$100) of the total assessed valuation of all the high school or unified school districts for which the county superintendent of schools maintains schools or classes in grades 9 through 12, inclusive, pursuant to Section 1850; (2) dividing the product so derived by the total average daily attendance of pupils included in the foundation program computed for the districts for pupils in grades 9 through 12, inclusive, in the high school or unified school districts for whom the county superintendent of schools maintains schools or classes in grades 9 through 12, inclusive, pursuant to Section 1850; and (3) multiplying the quotient so derived by the average daily attendance of pupils attending the special schools or classes maintained by the county superintendent of schools in grades 9 through 12, inclusive, pursuant to Section 1850.

1889. The Superintendent of Public Instruction shall prescribe the procedures for qualifying for and shall determine the amount of the allowances for special regular day classes and for authorized instruction in other than special regular day classes for education of mentally retarded pupils.

1890. The Superintendent of Public Instruction shall reduce the allowance to each county school service fund made pursuant to Sections 14057 and 14058 by an amount equal to the amount

computed pursuant to Section 1705.

1891. Notwithstanding any other provisions of this code, any school district having an average daily attendance of 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding year, may contract with a county superintendent of schools or with another school district, pursuant to Section 11001, for the education of physically handicapped pupils, mentally retarded pupils, or educationally handicapped pupils of any contracting party. Any such contract shall require the district whose pupils are receiving educational services thereunder to pay all costs of such educational services which are in excess of the amounts which may be received by the party providing the educational services, apportioned from the State School Fund for the average daily attendance of such pupils. Whenever a county superintendent of schools is a party to such a contract, no tax shall be levied to defray the costs of educational services under the contract by any party other than the school district whose pupils are receiving such educational services.

#### Article 14.5. Education of Prisoners

1900. The county superintendent of schools, with the approval of the county board of education and the board of supervisors, shall have power to establish and maintain classes or schools for prisoners in any county jail, or any county industrial farm or county or joint county road camp, for the purpose of providing instruction in civic, vocational, literacy, health, homemaking, technical, and general education.

1901. The county board of education shall have the authority to award diplomas or certificates to prisoners enrolled in classes or schools in any county jail, or any county industrial farm or county or joint county road camp upon successful completion of a prescribed course of study.

1902. The county board of education may provide for the maintenance on Saturday of classes for prisoners in any county jail, or any county industrial farm or county or joint county road camp.

1903. For purposes of attendance, "adult" means any prisoner confined in any county jail, or any county industrial farm or county or joint county road camp and who has enrolled in classes or schools authorized by Section 1900.

1904. For all schools or classes maintained by the county superintendent of schools as authorized by Section 1906 in any county jail, or any county industrial farm or county or joint county road camp, the Superintendent of Public Instruction shall allow the same amount as he would compute for the foundation program of a high school district under Section 41712.

For purposes of this section, the Superintendent of Public Instruction shall, by rules and regulations, establish minimum standards for the conduct of the schools or classes, including, but not

necessarily limited to, class size, attendance requirements, and requirements concerning records to be kept and reports to be submitted.

1905. The sheriff or other official in charge of county correctional facilities may, subject to the approval of the board of supervisors, provide for the rehabilitation of prisoners confined in the county jail, or any county industrial farm or county or joint county road camp. Such rehabilitation shall emphasize education and vocational training.

1906. The board of supervisors may, by ordinance, direct the county superintendent of schools to establish and maintain classes or schools for prisoners in any county jail, or any county industrial farm or county or joint county road camp established by the county. The county board of education shall have the same powers and duties with respect to such schools, including the establishment of the budget deemed necessary for the operation of the school programs, as the governing board of a school district would have were such schools maintained by a school district.

1907. The board of supervisors, in lieu of proceeding under Section 1906, may provide for the establishment and maintenance of classes or schools in connection with the jail facilities for the education and vocational training of the prisoners. The board, by ordinance, may provide for the establishment and maintenance of school facilities in the county jail, or any county industrial farm or county or joint county road camp, and such schools may be maintained by the governing board of any school district maintaining secondary schools.

1908. (a) The board of supervisors of the county shall transfer from the general fund of the county to the county school service fund of the county superintendent of schools such sums, in excess of the amount of money received from the state by the county superintendent of schools, as the county board of education has deemed necessary to maintain the school programs in the county jail, county industrial farm or county or joint county road camps as described in Section 1906.

(b) The board of supervisors, in lieu of proceeding under subdivision (a), shall agree with the governing board of the school district providing classes or schools for prisoners, to transfer from the general fund of the county to the general fund of the district such sums, in excess of the amount of money received from the state by the district, as is necessary to maintain its school programs in the county jail, county industrial farm or county or joint county road camps as described in Section 1907.

1909. The provisions of this article shall be applicable only to Riverside County and Marin County.

## Article 15. Emergency Schools

1920. In order to provide elementary education for children residing in the county, or in order to provide elementary education for children of migratory laborers engaged in seasonal industries within the county, the county superintendent of schools may, with the approval of the county board of education, when funds are not available from other sources and in his judgment it is necessary, do any one or more of the following acts:

(a) Establish and maintain one or more emergency elementary schools for children.

(b) Provide one or more emergency teachers for the regular elementary schools of the districts in the county for the pupils.

(c) Provide transportation for the children to an elementary school.

In lieu of providing transportation of any pupil, the county superintendent of schools may, with the approval of the county board of education, pay to the parents or guardian of the pupil the cost of food and lodging for the pupil at a place convenient to an elementary school. The amount so paid shall not exceed the cost of providing for the transportation of the pupil to and from his home and the school.

The county superintendent of schools may, with the approval of the county board of education, pay the expenses incurred in providing all the facilities and services authorized in this section, including necessary capital outlays, from the county school service fund.

All emergency schools shall be maintained in accordance with standards prescribed by the Superintendent of Public Instruction.

1921. The county superintendent of schools shall draw requisitions upon the unobligated funds of any suspended school district under his jurisdiction to pay in whole or in part the expenses incurred for the maintenance of emergency schools in the district.

1922. The county superintendent of schools may, with the approval of the county board of education, insure all real and personal property constructed, purchased, or otherwise provided by him for emergency schools established by him.

1923. The county superintendent of schools may, with the approval of the county board of education, transfer or sell the real and personal property of any emergency school maintained by him to any elementary school district under his jurisdiction, or to any other political subdivision of the state within which the school is located, upon such terms and conditions as are agreed upon by the county superintendent of schools, with the approval of the county board of education, and the governing board or authority of the district or other political subdivision. Districts and other political subdivisions may enter into such agreements and acquire such property. Any funds received by the county superintendent of schools under this section shall be paid by him into the county school service fund.

1924. The units of average daily attendance for a fiscal year in an emergency school maintained by the county superintendent of schools shall be computed by dividing the total number of days of pupils' attendance in the emergency school during the fiscal year by 175.

1925. The county superintendent of schools of any county may, with the consent of the county board of education, contract for the transportation of pupils attending schools or classes operated by the county superintendent of schools pursuant to Sections 1850 to 1946, inclusive, to and from any exposition or fair, school activities, or other activities which the county superintendent of schools determines to be for the benefit of the pupils, in this state, and may pay for the transportation out of the county school service fund.

#### Article 16. Institutes

1930. The county superintendent of schools may, with the approval of the county board of education, hold an annual teachers institute in each year as provided in Sections 10300 to 10319, inclusive.

Notwithstanding any other provision to the contrary, teachers employed in community colleges may be exempted from attendance at or participation in such institute by action of the community college district involved.

1931. The county superintendent of schools may, with the approval of the county board of education, hold an annual institute of noncertificated employees in each year as provided in Sections 10340 and 10341.

#### Article 17. Miscellaneous

1940. The county superintendent of schools may, with the approval of the county board of education, expend county school service funds for the purpose of administering and accounting for the county school service fund, or he may, with the approval of the county board of education, contract with and pay the board of supervisors for services rendered in administering and accounting for the county school service fund.

1941. The county superintendent of schools may, with the approval of the county board of education, provide services to school districts or community college districts in screening and directing teachers to the schools under his jurisdiction.

1942. The county superintendent of schools may, with the approval of the county board of education, pay actual and necessary travel expenses incurred in connection with curricular and special services by the county superintendent of schools or by his designated staff members in accordance with regulations established by the Superintendent of Public Instruction.

1943. The county superintendent of schools may, with the approval of the county board of education, employ personnel to conduct research in connection with the activities of the county superintendent of schools, and to develop systems, procedures and methods for applying such research findings to improve the effectiveness of those activities.

1944. The county superintendent of schools may with the approval of the county board of education provide for the publication of materials that are necessary in connection with the curricular and special services that the superintendent of schools is authorized to perform in the county. The county superintendent of schools may, in accordance with regulations adopted by the county board of education and for educational use, sell or give away the published materials or may exchange them for similar published materials. Unless restricted by the regulations of the county board of education, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published materials in accordance with this section is declared to be a public purpose and in furtherance of Article IX, Section 1, of the California Constitution.

1945. The county superintendent of schools may, with the approval of the county board of education, provide advisory services in school business administration activities, in maintenance of school building and grounds, and in the processing of special problems concerning credentials as designated by the State Department of Education.

1946. The county board of education may enter into agreements with the governing boards of any of the school districts or community college districts under the jurisdiction of the office of the county superintendent of schools for the conduct, under the direction of that office, of centralized in-service training programs for both certificated and classified employees of the school districts and community college districts and of that office.

Centralized in-service training program operations of the office of the county superintendent of schools shall be financed through the county school service fund, and shall be included in the budget prepared pursuant to Article 3 (commencing with Section 14050) of Chapter 1 of Part 9 of this division.

## CHAPTER 7. COUNTY SCHOOL TUITION FUND

### Article 1. Aid for Attendance in Adjoining States

2000. The county superintendent of schools of any county contiguous to an adjoining state may grant permission to pupils residing in the county to attend elementary school or high school in a school district of the adjoining state and may provide for the transportation of the pupils to the school.

2001. The average daily attendance of pupils residing in any

county of this state and attending an elementary school or high school in an adjoining state shall be credited to the county school tuition fund of said county and reported by the county superintendent of schools in his annual report to the Superintendent of Public Instruction, who shall include such average daily attendance in his report of average daily attendance in all the duly established schools of the state for the last preceding school year certified by him to the State Controller.

2002. The county superintendent of schools shall pay for the tuition of pupils residing in his county and attending school in an adjoining state from the county school tuition fund of his county pursuant to this article.

2003. The county superintendent of schools may provide for the transportation of such pupils to and from their homes and the school in an adjoining state attended by them. For this purpose the county superintendent of schools is authorized to purchase, maintain, and operate one or more schoolbuses and to contract with a responsible party or parties for the providing of such transportation by such party or parties.

In lieu of providing such transportation for any such pupil, the county superintendent of schools may pay the parent or guardian of each such pupil five cents (\$.05) per mile for each mile necessarily traveled by such pupil in going to and from his home and school except that if there is more than one such pupil in the household of the parent or guardian the county superintendent of schools may pay two and one-half cents (\$.025) for each such mile for each additional pupil in the household. The total amount paid to any parent or guardian hereunder shall not in any month exceed the sum of fifty dollars (\$50) for the one pupil in the household of such parent or guardian and twenty-five dollars (\$25) for each additional pupil in the same household.

2004. Any costs incurred by the county superintendent of schools for the transportation of pupils to a school in an adjoining state shall be paid by him by requisition drawn against the county school tuition fund.

2005. The superintendent of schools of any school district, or the principal of any school, in an adjoining state attended by pupils residing in an adjoining county in this state shall certify to the county superintendent of schools of the county not later than July 2nd of each year the average daily attendance of pupils from the county attending the school and the current expenditure, including transportation, incurred for the education of the pupils. Certification shall be made on forms furnished by the Superintendent of Public Instruction.

2006. The county superintendent of schools shall verify the certificates of attendance and cost of education of pupils attending schools in adjoining states and shall certify to the county auditor and the board of supervisors the amount of money required to be levied as a county school tuition tax. The amount shall not include any costs

for the transportation of the pupils in excess of the amounts permitted by this article. The amount shall be determined by subtracting from the total cost of the tuition and transportation allowed under this article, the amount to be apportioned by the Superintendent of Public Instruction, and the amount apportioned by the county superintendent of schools pursuant to Section 2000, to the county school tuition fund during the fiscal year.

2007. The board of supervisors shall levy a county school tuition tax upon the taxable property of the county sufficient to produce the amount required by this article.

2008. The county auditor shall report to the county superintendent of schools all amounts received from county school tuition taxes.

2009. The county superintendent of schools shall pay all costs of transportation and all verified claims for tuition of pupils attending school in adjoining states allowed under this article, by requisition drawn against the county school tuition fund.

2010. All requisitions drawn by the county superintendent of schools under this article shall be approved by the county auditor and paid by the county treasurer.

2011. The county superintendent of schools may with the approval of the county auditor transfer any unnecessary surplus in the county school tuition fund to the county school service fund whenever in his judgment the surplus will not be needed for the payment of tuition.

#### CHAPTER 8. COMMUNITY COLLEGE TUITION FUND

2100. Not later than August 8th of each year, the superintendent of schools of each county in which there is not a county community college shall certify the following items to the board of supervisors and to the county auditor of the county in accordance with the rules and regulations of the Board of Governors of the California Community Colleges which they are hereby authorized to adopt:

(a) The total current expense of education, exclusive of the expense for transportation of students, during the next preceding fiscal year of all nondistrict resident community college students, as defined in Section 68020, less state basic aid and federal apportionments received during the next preceding fiscal year for such community college students.

(b) The actual expense of transportation of such students not reimbursed by the state.

(c) An amount equal to three hundred dollars (\$300) per unit of average daily attendance of such students during the preceding fiscal year for the use of buildings and equipment

(d) The estimated amount needed as specified in subdivisions (a), (b), and (c) of this section for the current year.

The board of governors shall define, for the purposes of this section, the term "current total expense of education" and the term

“actual expense of transportation.”

If during any fiscal year the county superintendent of schools determines that an amount of at least one hundred dollars (\$100) more or an amount at least one hundred dollars (\$100) less than was required under either subdivision (a), (b), or (c) of this section was certified to the board of supervisors and the county auditor during a prior fiscal year, such amount shall, not later than the third succeeding fiscal year, be deducted from or added to the amount otherwise certified for subdivision (a), (b), or (c) for the current fiscal year, as appropriate.

2101. The governing board of the community college district shall forward the data supporting the certification, required of the county superintendent of schools in Section 2100, to the county superintendent of schools of the county wherein the district is located not later than July 15th of each year. The county superintendent of schools of the county wherein the district is located shall certify such data to the county superintendent of the county wherein the pupil resides not later than July 25th of each year.

2102. The board of supervisors with whom the certificate is filed shall at the time of making the tax levy for that year for county purposes, levy a special tax upon all taxable property in the county not situated in a community college district, sufficient in amount to defray all amounts specified in subdivisions (a), (b), and (c) of Section 2100.

2103. If the board of supervisors fails to make the tax levy, the auditor of the county shall make the levy.

2104. The tax when collected shall be paid into the county treasury and placed in the community college tuition fund which fund is continued in existence.

2105. The auditor shall notify the superintendent of schools of the amount in the funds when allocated, but in no case, later than the first Monday in February of each year for the first installment due on November 1, and not later than the first Monday in June of each year for the second installment due on February 1. The county superintendent of schools shall thereupon apportion the funds to the several community college districts, in his county or in other counties, in proportion to the amounts specified for subdivisions (a), (b), and (c) of Section 2100 for each of the districts; except that any apportionment otherwise allocable to a school district no longer maintaining a community college by virtue of the inclusion of that district in a newly formed or reorganized district maintaining a community college and established so as to be effective for all purposes pursuant to Section 4000 on or after July 1, 1961, shall be made to the new or reorganized district. The county superintendent of schools shall certify the apportionment to the auditor.

2106. The amount apportioned to each community college district under this article shall be paid into the treasury of the county whose superintendent of schools has jurisdiction over the district to the credit of the following funds of the district:

(a) An amount equal to the amounts specified in subdivisions (a) and (b) of Section 2100 shall be credited to the general fund of the district for community college purposes.

(b) Upon authorization by the governing board of the district, (1) all of the amount specified in subdivision (c) of Section 2100 may be credited for community college purposes to either the interest and sinking fund or the special reserve fund of the district; or (2) a portion of the amount may be credited to each of such funds. If no authorization is given by the governing board for the crediting of moneys to either fund, the amount shall be credited to the special reserve fund for community college purposes.

2107. The county superintendent of schools of a county having community college students attending a community college in another county shall draw his order on the county auditor in favor of the superintendent of schools of the county in which the students attend community college for any money belonging to any district outside of his county as provided in this chapter.

2108. The county auditor shall draw his warrant as directed by the superintendent of schools and the county treasurer shall pay it.

2109. A county superintendent of schools in whose favor the order is drawn shall pay the money into the county treasury to the credit of the following funds of the districts educating the students from the county paying the money:

(a) An amount equal to the amounts specified in subdivisions (a) and (b) of Section 2100 shall be credited to the general fund of the district.

(b) Upon authorization by the governing board of the district, (1) all of the amount specified in subdivision (c) of Section 2100 may be credited to either the interest and sinking fund or the special reserve fund of the district; or (2) a portion of the amount may be credited to each of such funds. If no authorization is given by the governing board for the crediting of moneys to either fund, the amount shall be credited to the special reserve fund.

2110. The board of governors shall furnish the forms and prescribe the procedures required of the community college districts and county superintendent of schools under this article.

2111. The special tax required by Section 2102 to be levied shall not be levied upon taxable property in any territory included in a newly formed community college district, during the first fiscal year for which the district is effective for all purposes, or in a unified district during the first fiscal year in which a community college is operated by the district or in any territory annexed to a community college district, during the first fiscal year for which the annexation is effective for all purposes, if the rate of community college district tax levied upon taxable property in such territory during such year for all community college purposes exclusive of bond interest and redemption, equals or exceeds the rate of tax which would be levied on taxable property in such territory under Section 2102 if this section were not in existence. The county auditor shall, on or before

September 25th of such year, determine and report to the county superintendent of schools the amount which would be raised if the tax prescribed by Section 2102 were levied in such territory during such year. The county superintendent of schools shall forthwith report the amount to the Board of Governors of the California Community Colleges, who shall forthwith certify such amount to the State Controller. The State Controller shall, on or before November 25th of such year, draw his warrant upon the General Fund, in the amount certified, payable to the county treasurer from the money appropriated by this section for such year. The county treasurer shall deposit the amount in the community college tuition fund, and the amount shall be apportioned under this article in the same manner as if it were the proceeds of the tax levied under Section 2102.

If the rate of the community college district tax levied upon taxable property in such territory during such year for all community college purposes, exclusive of bond interest and redemption, is less than the rate of tax which would be levied on taxable property in such territory in such year under Section 2102 if this section were not in existence, the board of supervisors at the time of levying the tax prescribed by Section 2102, shall levy in such territory, in lieu of the special tax prescribed by Section 2102, a special tax at a rate equal to the difference between the rate of tax levied under Section 2102 and the rate of district tax levied in the territory for all community college purposes, exclusive of bond interest and redemption. When collected the tax shall be paid into the county treasury and placed in the community college tuition fund. The county auditor shall, on or before September 25th of such year, determine and report to the county superintendent of schools the difference between the amount which would have been raised in such territory in such year if a special tax had been levied in such territory pursuant to Section 2102, and the amount which actually was or will be raised in such year from the levy of the special tax required by this paragraph. The county superintendent of schools shall forthwith report the amount to the board of governors, who shall forthwith certify such amount to the State Controller. The State Controller shall, on or before November 25th of such year, draw his warrant upon the General Fund, in the amount certified, payable to the county treasurer from the money appropriated by this section for such year. The county treasurer shall deposit the amount in the community college tuition fund and the amount shall be apportioned under this article in the same manner as if it were the proceeds of the tax levied under Section 2102.

There is hereby appropriated from the General Fund each year, commencing with the 1959-1960 fiscal year, to the Board of Governors of the California Community Colleges, the total of the amounts reported to him by each county superintendent of schools pursuant to this section, to be expended pursuant to this section.

**CHAPTER 9. INDIAN SCHOOL REIMBURSEMENT FUND**

2200. There is in the county treasury of each county receiving federal funds for the education and care of Indian children in accordance with contracts between the State Department of Education and the United States government a special fund known as the county Indian school reimbursement fund, which fund is continued in existence.

2201. The county superintendent of schools shall credit to the county Indian school reimbursement fund any money received from the federal government or from the State Department of Education under the terms of any contract between the federal government and the State Department of Education for the education and care of Indian children.

2202. The county superintendent of schools of each county may make temporary transfers from the county school service fund of his county in such amounts and at such times as he deems necessary to meet expenses incurred with the approval of the Superintendent of Public Instruction for the education and care of Indian children attending the public schools of the county. The amounts transferred shall be repaid to the county school service fund from the apportionments of federal funds subsequently received in the county Indian school reimbursement fund.

2203. Such portion of the money received in the county Indian school reimbursement fund as is not required for repayment of temporary transfers made from the county school service fund may be expended by the county superintendent of schools for the education and care of Indian children attending the public schools of the county in accordance with the provisions of a contract between the State Department of Education and the federal government and subject to the approval of the Superintendent of Public Instruction.

2204. Whenever by the provisions of any agreement entered into between the state or any officer or agency thereof and the government of the United States or any officer or agency thereof under the authority of any law for the education and welfare of Indian children, a school district or the governing board of a school district is required to execute a bond in favor of the government of the United States, or any officer or agency thereof, the bond may be executed by the governing board of the district and the cost shall be a proper charge against the funds of the district.

**CHAPTER 10. APPORTIONMENT OF COUNTY FOREST RESERVE SCHOOL MONEY**

2300. The county auditor of any county, receiving money from the government of the United States pursuant to any act of Congress providing for the distribution and payment to states and territories of a fixed and definite percentage of the money received by the

government of the United States from the forest reserves established therein, shall apportion the money pursuant to Section 29484 of the Government Code. The county superintendent of schools, with the approval of the county board of education, may allocate 15 percent of the funds from such money for use for the improvement of educational programs for students in the county. The balance of the money credited to the forest reserve account in the county school service fund from the United States Forest Reserve Fund in the State Treasury shall be apportioned by the county superintendent of schools to school districts and community college districts of the county lying within or adjacent to the United States forest reserve with approval of the county board of education in a manner which shall be prescribed prior to the 30th day of June of the fiscal year next following the year in which received.

When a portion of the area of a county is subject to the jurisdiction of the county superintendent of schools of another county or counties and such portion lies in or adjacent to the United States forest reserve, no apportionment of such money shall be made from the county school service fund without the approval of the county boards of education of both or all counties. In the event that both or all county boards of education do not concur in the apportionments of such money from the county school service fund prior to the first day of April of any year the county superintendent of schools of both or all counties shall on that date notify the Superintendent of Public Instruction or board of governors who shall, not later than 60 days following notification, make the apportionments. Apportionments made by the Superintendent of Public Instruction or board of governors are final.

Money apportioned pursuant to this section shall be deposited by the county auditor to the credit of the several funds as directed by the county superintendent of schools with the approval of the county board of education.

#### CHAPTER 11. COUNTY SCHOOL SUPPLY REVOLVING FUND

2400. The county superintendent of schools, or, when so directed by him, the county purchasing agent, shall, whenever a school supply revolving fund is established, purchase school supplies and equipment for the school districts and community college districts of the county which are required or authorized to purchase supplies or equipment through him, and upon requisition therefor by the proper authorities of the district shall deliver or cause the supplies to be delivered to the district together with a memorandum of the amount of the cost of the supplies delivered.

2401. Upon proper evidence of the receipt by any school district of the school supplies and equipment, and upon approval by the county superintendent of schools for payment of the invoice therefor, he shall draw his requisition upon the county auditor against the proper funds of the district in favor of the school supply

revolving fund for the cost of the supplies and equipment plus a charge, not to exceed 10 percent of the cost, to cover expenses of handling and possible losses. He shall thereupon draw his requisition upon the county auditor against the school supply revolving fund in favor of the vendor of the supplies and equipment in the amount of the approved invoice. The requisitions, when allowed and signed by the county auditor, constitute warrants on the county treasurer against the funds of the district and against the school supply revolving fund, respectively.

2402. The county superintendent of schools, or, if so directed by him, the county purchasing agent, may employ such help as is necessary to care for the receiving, handling, and forwarding of school supplies and equipment, and the necessary wages and expenses for the help shall be paid from the school supply revolving fund on requisition by the superintendent.

2403. The superintendent of schools may determine to abolish the school supply revolving fund in his county by serving notice in writing upon the auditor and treasurer of the county. Upon filing the notice discontinuing the fund, the superintendent of schools shall immediately arrange for the sale of supplies in his possession at their market price at the time of the sale plus any handling charges that may be charged against them. The sums secured from the sale shall be deposited by the superintendent of schools in the revolving fund which shall then be returned by the auditor to the respective districts from which it was created. A determination upon the part of the superintendent of schools to dispose of the school supply revolving fund shall not prejudice his right at a future time to recreate the fund.

## CHAPTER 12. COUNTY TAX RATES, COUNTY SUPERINTENDENTS

### Article 1. Maximum Tax Rates

2500. (a) The property tax rates that the county superintendent of schools is authorized to levy for special schools and classes shall be determined pursuant to this chapter.

(b) The maximum allowable tax rate for educable mentally retarded and the maximum allowable tax rate for trainable mentally retarded shall be determined for each in the following manner:

(1) The county superintendent shall determine the average expenditure per class, exclusive of capital outlay, for the 1972-73 fiscal year;

(2) He shall increase this amount by 5 percent;

(3) He shall multiply the amount determined in paragraph (2) by the number of classes estimated to be established for the 1973-74 fiscal year;

(4) He shall decrease the amount determined in paragraph (3) by the federal aid, all state aid, the local foundation program contribution of the districts, pursuant to Section 1705, and any other

local income other than secured roll property tax revenue;

(5) The remainder determined in paragraph (4), if any, may be raised by a tax rate levied on the assessed valuation on the secured roll of the school districts for which the program is available.

(c) The maximum allowable tax rate for special classes of physically handicapped shall be determined as follows:

(1) The county superintendent shall determine the average expenditure per type of class, exclusive of capital outlay, for the 1972-73 fiscal year;

(2) He shall increase this amount by 5 percent;

(3) He shall multiply the amount determined in paragraph (2) by the number of classes estimated to be established for the 1973-74 fiscal year;

(4) He shall decrease the amount determined in paragraph (3) by the federal aid, all state aid, the local foundation program contribution of the districts pursuant to Section 1705, and any other local income other than secured roll property tax revenue;

(5) The remainder determined in paragraph (4), if any, may be raised by a tax rate levied on the assessed valuation on the secured roll of the districts for which the program is available.

(d) The maximum allowable tax rate for each of the physically handicapped programs of remedial instruction including special blind instruction, remedial physical education, and individual instruction shall be determined in the following manner:

(1) The county superintendent of schools shall determine the expenditure per average daily attendance, excluding capital outlay, for the 1972-73 fiscal year;

(2) He shall increase the amount per average daily attendance by 5 percent;

(3) He shall multiply the amount determined in paragraph (2) by the estimated number of average daily attendance for the 1973-74 fiscal year;

(4) He shall decrease the amount determined in paragraph (3) by the federal aid, all state aid, local foundation program contribution of districts pursuant to Section 1705, and any other local income other than secured roll property tax revenue;

(5) The remainder from paragraph (4) may be raised by a tax rate over the assessed valuation on the secured roll of the districts for which each program is available.

(e) The maximum tax rate for the juvenile hall program shall be determined in the following manner:

(1) The county superintendent of schools shall determine an expenditure per unit of average daily attendance, excluding capital outlay, for the 1972-73 fiscal year;

(2) He shall increase the amount per average daily attendance by 5 percent;

(3) He shall multiply the amount determined in paragraph (2) by the estimated number of average daily attendance for the 1973-74 fiscal year;

(4) He shall decrease the amount determined in paragraph (3) by the federal aid, all state aid, and local income other than secured roll property tax revenue;

(5) The remainder from paragraph (4) may be raised by a tax rate over the assessed valuation on the secured roll of the county.

(f) The maximum tax rate for any program in subdivisions (b) to (e), inclusive, for each fiscal year subsequent to the 1973-74 fiscal year shall be determined by:

(1) Increasing the allowed average expenditure per class or average daily attendance for the prior year by a percentage equal to the percentage increase of foundation programs for unified school districts for the then current fiscal year;

(2) Multiplying the amount determined in paragraph (1) by the estimated number of classes or units of average daily attendance projected for the budget year;

(3) Adjusting the amount determined in paragraph (2) by the appropriate methods prescribed in subdivision (b) to (e), inclusive, but exclusive of the increases made pursuant to paragraph (2) of each of such subdivisions, and by any amount which resulted from over or underestimating the average expenditure per class or average daily attendance for the prior fiscal year; the number of classes pursuant to subdivisions (b) and (c); the number of average daily attendance pursuant to subdivisions (d) and (e); the revenue determined in subdivision (b) (4); (c) (4), (d) (4), and (e) (4), and determining the tax rate pursuant to the appropriate subdivision.

(g) The maximum allowable average expenditure per class or average daily attendance may be increased by a majority vote of the qualified electors of the county at an election which may be ordered by the county board of education. Such a proposition may be voted on only in conjunction with a general countywide election.

2500.1. Notwithstanding the provisions of Section 2500, where, on or after July 1, 1975, the powers and duties of a board of supervisors are transferred to a county board of education pursuant to Section 1080 of this code:

(a) The maximum tax rate for the juvenile hall program for the first budget year for which such transfer of authority is effective shall be determined in the following manner:

(1) The county superintendent shall determine the expenditure per unit of average daily attendance, excluding capital outlay, for the fiscal year immediately preceding the date upon which the transfer of the powers and duties of the board of supervisors to the county board of education is effective.

(2) He shall increase the amount per average daily attendance determined in paragraph (1) by the inflation adjustment determined by the Superintendent of Public Instruction and the Director of Finance.

(3) He shall multiply the amount determined in paragraph (2) by the estimated number of units of average daily attendance projected for the budget year.

(4) He shall reduce the amount determined in paragraph (3) by the federal aid, all state aid and local income other than secured roll property tax revenue, and by any amount which resulted from overestimating the units of average daily attendance for the prior year.

(5) The remainder from paragraph (4) may be raised by a tax rate over the assessed valuation on the secured roll of the county.

(b) The maximum tax rate for each year subsequent to the first year in which the transfer of authority is effective shall be determined in accordance with the provisions of subdivision (f) of Section 2500.

2501. The maximum tax rates the county superintendent of schools may levy for the purposes and under the terms and conditions of Sections 1705, 2006, 2102, 37109, 41203, 42909, and 84203 shall be that necessary to pay the estimated costs for each.

2502. The maximum tax rate the county superintendent of schools may levy pursuant to Section 1806, 52317, and 56811 shall be that necessary to fund the proposed authorized expenditures, exclusive of capital outlay, after all federal aid, state aid, and local income, other than from property tax revenue has been deducted, but in no case shall the rate exceed that limit prescribed in Section 1806, 52317, and 56811 for current expenses only.

2503. The county superintendent of schools may levy the tax rate necessary for payments required pursuant to any school building aid law.

2504. The county superintendent may levy a tax rate for capital outlay costs for all purposes, not funded in Section 2502, except that proceeds from this tax may not be used to construct any administration facilities or centers unless, and to the extent that, a tax was levied and collected for such purpose in the 1972-73 fiscal year. The tax rate shall be levied on the areas served, but the rate in any portion of the county shall not exceed five cents (\$0.05) per one hundred dollars (\$100) of assessed valuation.

2505. The county superintendent of schools may levy a tax rate necessary to pay tuition charges for excess costs which are billed the county superintendent for children enrolled in mandated programs.

2506. (a) The county superintendent shall have a maximum tax rate available for the operation, maintenance and housing of the county office, including any costs associated with the operation of the county board of education and the county committee on school district organization, and for any ongoing program, except children's center programs maintained by the county superintendent of schools, not included in any previous section of this article.

(b) For fiscally independent county superintendent offices, the maximum allowable tax rate shall be the rate levied for these purposes in 1971-72 or 1972-73, whichever is higher, minus that portion of the rate levied for capital outlay and juvenile hall purposes. This maximum rate may be exceeded in the amount and under the terms specified in Section 2266 of the Revenue and Taxation Code.

(c) For county superintendent offices which become independent on and after July 1, 1974, the maximum allowable tax rate shall be that rate which was levied or could have been levied in the preceding fiscal year pursuant to subdivision (d) of this section. This maximum rate may be exceeded in the amount and under the terms specified in Section 2266 of the Revenue and Taxation Code.

(d) For fiscally nonindependent county superintendent offices, the maximum allowable tax rate shall be computed by determining the amount of expenditures for the county superintendent of schools' office, exclusive of capital outlay expenditures and expenditures for juvenile hall purposes, in 1971-72 and 1972-73 which were funded from property tax revenues attributable to the county general fund. The amount for each year shall be converted to a tax rate equivalent for that year by dividing each amount by the assessed value of the county in that year and multiplying the quotient by 100; the higher of the two resulting tax rate equivalents shall be the maximum allowable tax rate. This maximum tax rate may be exceeded in the manner and under the terms specified in Section 2266 of the Revenue and Taxation Code.

(e) The maximum allowable tax rate described in this section is not intended to prohibit a county from augmenting the budget of the county superintendent of schools offices from general county funds. If the budget of the county superintendent of schools, as set by the county, does not require the full amount of the maximum allowable rate, the difference between the maximum rate and the actual rate required shall not be levied and shall not be available for any other county purpose.

(f) The maximum allowable tax rates described in this section may be increased by a majority vote of the qualified electors of the county at an election which may be ordered by the county board of education in fiscally independent county superintendent of schools offices or by the county board of supervisors in fiscally nonindependent county superintendent of schools offices. Such a proposition may be voted only in conjunction with a general countywide election.

(g) Notwithstanding any other provision of this section, where a board of supervisors transfers duties and functions to a board of education pursuant to Section 1080 on or after July 1, 1975, the maximum allowable tax rate described in this section shall be computed by determining the amount of expenditures for the county board of education, the county committee on school district organization and the county superintendent of schools' office, exclusive of capital outlay expenditures and expenditures for juvenile hall purposes in the year immediately preceding the date on which such transfer becomes effective, which were funded from property tax revenues attributed to the county general fund and from property tax revenues attributed to the tax rate authorized in subdivision (c) of this section. The amount for such budget year shall

be converted to a tax rate equivalent for that year by dividing the total of the property tax revenues by the assessed value of the county in that year and multiplying the quotient by 100. This maximum rate may be exceeded in the manner and under the terms specified in Section 2266 of the Revenue and Taxation Code.

2507. In any fiscal year, new maximum allowable rates shall be computed as if the maximum allowable rates were levied in the prior fiscal year, but such maximum allowable rates need not be levied.

2508. None of the rates authorized pursuant to this article shall be included in computing the maximum allowable tax rates for counties pursuant to Section 2261 of the Revenue and Taxation Code.

## Article 2. Tax Override for Outdoor Science and Conservation Program

2520. Notwithstanding Article 1 (commencing with Section 2500) of this chapter or Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 5 of Title 2, in a county of the 21st class, which has authorized the use of a single-fund budget pursuant to this chapter, and in a county of the fifth class, the county superintendent of schools, with the approval of the county board of education and with the approval of the electors of the county at an election called therefor, may cause a tax to be levied pursuant to this section. The proceeds of the tax shall be used by the county superintendent of schools to acquire, maintain, and insure real and personal property and to construct, maintain, and insure buildings, facilities, and roads for a program in outdoor science education and conservation education conducted by the county superintendent pursuant to agreements with school districts and community college districts in the county.

The county superintendent of schools, with the approval of the county board of education, shall include in the single-fund budget and other documents required by this chapter, the amount of money required to be raised by a tax for the purposes set forth in this section. The amount shall be determined by subtracting from the total amount required for said purposes: (1) the total of any balances remaining to be expended for this purpose; and (2) the total amount to be received from school districts and community college districts for this purpose.

At the time of levying county taxes, the board of supervisors shall include as a part of the tax rate and levy authorized by Section 1624 a tax on all property in the county which will produce the amount specified for the purposes of this section; provided, however, that the maximum rate of tax levied pursuant to this section shall not exceed five cents (\$.05) on each one hundred dollars (\$100) of assessed valuation.

No provision of Section 8763 or of any other section of this code shall be deemed to require school districts and community college districts participating in such programs or classes to repay the funds

raised and expended pursuant to this section.

### CHAPTER 13. SCHOOL DISTRICT BOUNDARIES

2600. Every county superintendent shall inquire and ascertain whether the boundaries of the school districts and community college districts in his county are definitely and plainly described in the records of the board of supervisors and keep in his office a full and correct transcript of the boundaries.

If the boundaries of districts are conflicting or incorrectly described, or if, by reason of the resubdivision of land or other change of property lines, the location of the boundaries becomes indefinite or conflicts with lines of assessment, the board of supervisors may correct and relocate the boundaries to follow definite, established property lines, conforming as nearly as practicable to the general location of the former boundaries.

Where boundary lines are corrected or relocated, the relocation of the new lines shall be made in such a manner that the majority of the area of the parcel or property affected determines the district in which the parcel or property is located. Nothing herein contained authorizes the board of supervisors, in relocating the boundaries, to substantially alter the former boundaries of school districts, or community college districts.

2601. Whenever the boundary line of any school district or community college district is described as being "to" or "from" the ocean shore, such description means to or from a point three miles seaward from the shore.

Whenever the boundary line of any school district or community college district is described as being "along," "with," "by," or "on" the ocean shore, such description means on a line parallel with and three miles seaward from the shore.

Nothing contained in this section shall retroactively alter, enlarge, diminish or otherwise affect the powers, jurisdiction, rights, duties, responsibilities, obligations or liabilities of any such school district or community college district.

2602. Whenever any school district or community college district has been or is hereafter intersected by any county boundary line in the formation of any new county, or in changing the boundary of any county, and portions of the district then lie in different counties, the district shall, by operation of law, constitute and become established as a joint school district, at the time of the intersection, unless otherwise provided.

2603. The county superintendent may, if he deems it necessary, order a description of the boundaries of any district under his jurisdiction printed in pamphlet form and pay for the pamphlets out of the county school service fund.

**PART 3. ORGANIZATION AND REORGANIZATION OF  
SCHOOL DISTRICTS AND COMMUNITY COLLEGE  
DISTRICTS**

**CHAPTER 1. GENERAL PROVISIONS**

**Article 1. Definitions**

4000. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this part.

4001. "An action to organize or reorganize districts" means an action to form, dissolve, or lapse a school district, or community college district to annex all or part of the territory of a district to another district, to transfer all or part of a district to another district, or the unification of school districts, or any combination or all of such actions. It also includes a reorganization proceeding under Chapter 2 (commencing with Section 4200) of this part.

4002. For the purposes of any reference in this part to "districts of the same kind," all elementary districts are districts of the same kind, all high school districts are districts of the same kind, all community college districts are districts of the same kind, and all unified districts are districts of the same kind.

4003. "Component district" means any of the following:

(a) An elementary district which is included within a high school district.

(b) A high school or unified school district which is included within a community college district.

(c) A portion of a high school or unified district which is included within a community college district.

4004. "Former district" means a district which has been wholly included in another district. The boundaries of a former district are those of the district as it existed immediately prior to being wholly included in another district.

4005. "County committee" means the county committee on school district organization or a county board of education organized and acting as provided for in Article 4 (commencing with Section 4290) of Chapter 2 of this part.

**Article 2. General Procedural Provisions**

4020. In any petition in an action to organize or reorganize school districts and community college districts there may be designated not to exceed three of the petitioners as chief petitioners for the purpose of receiving notice of any public hearings to be held on the petition.

4021. The persons securing the signatures to a petition of electors in an action to organize or reorganize school districts and community college districts, shall attach thereto an affidavit that all persons who signed the petition did so in the presence of the affiant and that each

signature is a genuine signature of the person whose name it purports to be.

4022. Except as otherwise provided, when an election is required in an action to organize or reorganize school districts and community college districts, the election shall be called, held, and conducted by the county superintendent of schools in the manner prescribed in Part 4 (commencing with Section 5000).

4023. The county superintendent shall canvass the returns of an election in an action to organize or reorganize school districts and community college districts. Upon completion of the canvass the county superintendent shall certify the results of the election to the governing boards of the districts affected. If the requisite number of the votes cast is in favor of the organization or reorganization proposition, he shall also certify the proceedings and the results to the county board of supervisors of each county in which is located any school district or community college district which is changed by the action as to boundaries, status, or kind.

4024. Unless otherwise specifically provided, the question of the organization or reorganization of school districts or community college districts submitted at an election is determined in favor of the organization or reorganization if a majority of the votes cast at the election favor the organization or reorganization.

4025. After the county board of supervisors acts upon and approves a petition in an action to organize or reorganize school districts or community college districts or receives a proper certificate of election or other proper evidence that an action to organize or reorganize school districts or community college districts has been approved as provided by law, the board of supervisors shall make an order to create, change, or terminate school districts or community college districts as may be required by the action and establish or reestablish the boundaries of the districts affected by the action. The order shall be entered in the county's record of school districts.

If the action results in the creation of a district or a change of district boundaries, of the type described in Section 54900 of the Government Code, the order of the board of supervisors shall include the legal description of each district created or changed in the action and, immediately after making the order, the board of supervisors shall cause a copy of the order and a map or plat indicating the boundaries established or reestablished for each district affected by the order to be filed as required by Chapter 8 (commencing with Section 54900), Part 1, Division 2, Title 5 of the Government Code.

4026. After the expiration of one year from the date of the order, the order shall be conclusive evidence that the school district or community college district has been legally organized, or the boundaries legally changed, as the case may be, and no suit shall be maintained which questions the validity of the organization or change of boundaries.

### Article 3. Organization and Reorganization Under Jurisdiction of Different Counties

4040. In any action to organize or reorganize school districts or community college districts so as to change the boundaries or status of one or more school districts or community college districts under the jurisdiction of different county superintendents of schools, the proceedings to be conducted or the actions to be taken by county officers or agencies shall be conducted or taken concurrently in each of the counties except as provided in this article or as otherwise provided by law.

4041. Any petition to a county officer or agency in an action referred to in Section 4040 shall be presented concurrently in each county. The sufficiency of the petition shall be determined jointly by the county superintendents who have jurisdiction over the elementary or unified districts in which any petitioners reside.

4042. Any election in an action referred to in Section 4040 shall be called and conducted by each county superintendent in the elementary or unified districts which are under his jurisdiction and in which the election is to be held. The designation of the date and hours of the election and the form and content of the ballot and the declaration of the result of the election shall be by joint action of the county superintendents who call and conduct the election.

4043. Any decision as to whether an election in an action referred to in Section 4040 shall be held or a public hearing conducted shall be made jointly by the county officers or agencies required by law to make the decision. Any advisory recommendations, statements, or findings required or permitted of county officials or agencies may be made either separately or jointly at the discretion of the officials or agencies of each county involved in the action.

4044. Any public hearing required or allowed to be held in an action referred to in Section 4040 may be conducted concurrently in each county or jointly in either county as appears most convenient and practical to the county officers or agencies conducting the hearing.

4045. Any decision in an action referred to in Section 4040 to grant or deny the proposed reorganization may be taken at or following a joint public hearing. If separate hearings are conducted concurrently in each county a decision to grant or deny the proposed reorganization shall be made only after findings and tentative conclusions of the hearings in each county have been transmitted to the officer or agency which conducted the concurrent hearings in each of the other counties. A decision to grant the proposed reorganization shall be effective only if the same decision is rendered in each of the counties involved in the matter.

**Article 4. Completion and Effective Dates for Action**

4060. An action to organize or reorganize a school district or community college district is complete when the board of supervisors makes the order required by Section 4025.

4061. An action to form a unified school district under Section 35503 is complete upon the date of completion of the action by which the boundaries of the districts comprising the unified district become coterminous.

4062. In any school district or community college district which is created or whose boundaries or status is changed by an action to organize or reorganize districts, the changes shall be effective on the date the action is completed for the purposes set forth below:

(a) The determination of the assessed valuation of any district or districts affected by the action.

(b) The appointment or election of members of the governing board.

(c) The preparation and submission of the school district or community college district budgets.

(d) The election or appointment of an executive officer and other employees required to service the immediate needs of the district.

(e) The election or appointment of employees for the ensuing school year.

(f) The calling and conducting of any elections authorized by law relative to the financing of the district, including bonded indebtedness, tax rates, and state school building aid.

(g) The expenditure of funds available to the district.

(h) The exercise by the governing board of the school district or community college district of other powers and duties vested in governing boards of the districts of the same type or class and not inconsistent with other provisions of this code.

(i) The receipt and expenditure of funds transferred pursuant to Section 42623 or 85223.

(j) The issuing and selling of bonds.

4063. Notwithstanding the provisions of Section 4062 any district which is reorganized so as to be wholly absorbed into one or more other districts shall continue to have the following powers after the date the action is complete and until the action is effective for all purposes:

(a) The appointment or election of members of the governing board.

(b) The preparation and submission of the school district or community college district budgets.

(c) The election or appointment of an executive officer and other employees required to service the immediate needs of the district.

(d) The election or appointment of employees for the ensuing school year.

(e) The calling and conducting of any elections authorized by law relative to the financing of the district, including bonded

indebtedness, tax rates, and state school building aid, subject however to the provisions of Section 4066.

(f) The expenditure of funds available to the district.

(g) The participation in any proceeding authorized by law for the further reorganization of the district.

(h) The exercise by the governing board of the school district or community college district of other powers and duties vested in governing boards of school districts of the same type or class and not inconsistent with other provisions of this code.

4064. Except as provided in Section 4065 any action to organize or reorganize a school district or community college district shall be effective for all purposes on the date set forth below, whichever is applicable:

(a) Any such action completed on or before January 1 of any school year shall be effective on the next succeeding July 1.

(b) Any such action completed after January 1 of any school year shall become effective on the second succeeding July 1.

4065. An order of a board of supervisors attaching the territory of a lapsed district to one or more adjoining districts shall be effective for all purposes on the date of the order.

4066. Any district which is reorganized so as to become wholly absorbed into one or more other districts shall continue as a district until the reorganization becomes effective for all purposes as provided in Section 4064. The territory may be included, however, in plans and recommendations for further reorganization. Such reorganized districts shall not call or conduct elections for the authorization to incur bonded indebtedness, or for the authorization to accept and expend apportionments pursuant to state school building aid laws, or to increase or continue the existing maximum tax rate, or enter into agreements or incur obligations that would extend beyond the date upon which the reorganization would become effective for all purposes without first having obtained the prior approval of the governing board of the district formed pursuant to such reorganization. Thereafter the wholly absorbed district shall cease to exist except insofar as specific provisions are made in this code for former districts.

#### Article 5. Territory of School Districts

4080. Except as provided in Section 4082, a new school district or community college district shall not be formed to include territory which is separated from other portions of the territory of the district by the territory of one or more other school districts or community college districts.

4081. Except as provided in Section 4082 no territory which is not contiguous to a school district or community college district may be made a part of the district.

4082. Whenever territory is removed from a district so that the district is separated into two or more noncontiguous parts, the

validity, powers, and duties of the district shall not be affected by the removal of the territory. Such a district may be annexed or attached to another district or included in the formation of a new district, or otherwise reorganized in the same manner as a district which does not include noncontiguous parts.

4083. Whenever any territory within a county is listed in the Annual Report of Assessed Valuation and Tax Rates as territory not included within the boundaries of both an elementary school district and a high school district, the county committee may, between July 1 and August 31, recommend to the board of supervisors of the county in which such territory is located that the territory be annexed to one or more adjoining school districts as the board of supervisors considers most convenient and proper.

Upon receipt of the recommendation of the report of the county committee, the board of supervisors may set a date of hearing and may give notice thereof as provided in Section 35703 or 74643.

The board of supervisors shall at the time and place fixed in the notice hear all persons interested in the matter and may continue the hearing from time to time but for not more than two weeks in all. After the hearing the board may make an order entered upon its minutes annexing the territory to such district as it deems proper and most convenient.

4084. The territory in any Indian reservation of the United States government may be formed into one or more school districts, or may be included in whole or in part in one or more school districts in the same manner as other territory.

4085. Any land owned by the United States and lying within the boundaries of any school district or community college district is a part of the school district or community college districts and has been continuously a part of the school district or community college districts from the time the land first lay within the boundaries of the school district or community college district.

4086. Whenever territory is transferred to another district or becomes a part of a district, by means of reorganization, in which trustee areas have been established, the territory being transferred shall become a part of the trustee areas to which it is contiguous. In the event that the territory being transferred is contiguous to more than one trustee area, terms of agreement to the transfer may include provisions for the division of the transferred territory among the trustee areas to which it is contiguous.

4087. Any change in district organization made pursuant to provisions of this code other than Chapter 2 (commencing with Section 4200) of this part, shall have no effect upon master plans for the school district or community college district organization of a county unless such master plans are amended to reflect such changes. Amendments to the master plan shall be made in accordance with the procedure provided in Chapter 2.

4088. Prior to the date upon which a newly organized or reorganized district becomes effective for all purposes the county

committee may include all or part of the territory in plans and recommendations for further reorganization.

#### Article 6. Tax Rates of Reorganized Districts

4100. When any district for which the voters have established a maximum tax rate in excess of that otherwise prescribed is reorganized the effect upon the maximum tax rate previously established for the districts is as provided in this article.

4101. When a new district is formed, any maximum tax rates previously established for the former districts are not thereby transferred to the new district except as provided in this article.

4102. When the boundaries of an existing district are changed by the addition or deletion of any territory or district, any maximum tax rate previously established for the existing district is not affected by the change of boundaries.

4103. When a district or part of a district is attached to another district by annexation, transfer, or otherwise, any maximum tax rate previously established for the former district is not thereby transferred to the district to which the territory is attached, except as provided in this article.

4104. When a unified district is formed because the boundaries of an elementary district and a high school district become coterminous, and either or both of the former districts had established a district tax rate in excess of the maximum otherwise prescribed, the amount of the excess portion of the rate for either or both districts shall, if the governing board of the unified school district so determines, be continued and added to the maximum rate otherwise prescribed for the unified district for a period not to exceed the remaining number of years for which the excess tax rate was previously authorized.

4105. If a community college district is formed with boundaries which are coterminous with the boundaries of a single high school district of any type and both districts are thereafter governed by governing boards of identical personnel, and if prior to the formation of the community college district the high school district had established a district tax rate in excess of the maximum rate otherwise prescribed, such excess tax rate shall be continued at the option of the governing boards of the high school and community college districts as the maximum combined tax rate of both districts for combined high school and community college purposes for a period not to exceed the remaining number of years for which the excess tax rate was previously authorized by the voters of the high school district.

Whenever the excess tax rate is continued as the maximum combined rate of both districts and the boundaries of the high school and community college districts thereafter become noncoterminous as a result of any community college district organization or reorganization proceedings, the excess tax rate shall be continued at

the option of the governing board of the high school district as the maximum tax rate of such district for high school purposes for a period not to exceed the remaining number of years for which the excess tax rate was previously authorized by the voters of the high school district.

Whenever the excess tax rate is continued as the maximum combined rate of the high school and community college districts, and while both districts are governed by governing boards of identical personnel, the governing boards of such districts may, by resolution, divide said maximum combined tax rate between the two districts, provided that the resulting maximum tax rate for either of the districts shall not be established at a rate lower than the applicable rate or rates otherwise established.

As used in this section, "high school district" includes a unified school district, and "high school purposes" include unified school district purposes.

#### Article 7. Disposition of Records, Funds, Property and Obligations When Reorganized

4120. When a community college district is formed to include territory in four or more counties, and the new district thereby acquires property of a former community college district which ceases to exist by virtue of its inclusion in the new district, no tax levy shall be made under the provisions of Article 8 (commencing with Section 4140) of this chapter against the assessed valuation within the territory of the former community college district, for the redemption of bond principal or payment of interest on indebtedness which was originally a liability against territory other than that of the former community college district until present or future bonds equal to the appraised value of the property acquired have been redeemed through the payment of principal and interest from revenue derived from a tax levy against the assessed valuation of all of the territory of the new district except the territory of the former community college district from which the property was acquired.

4121. When any school district or community college district is wholly annexed to another district or is included in a new district, pursuant to proceeding taken, all property, funds and obligations of the former district, except for bonded indebtedness, shall accrue to the annexing district or to the new district, as the case may be. Any funds derived from the sale of the school bonds issued by the former district shall be used for the acquisition, construction, or improvement of school property only in the territory which comprised the former district or to discharge bonded indebtedness of the former district, except that if the bond debt is assumed by the new district as provided in this article the funds may be used in any area of the new district for the purposes for which the bonds were originally voted.

This section does not apply to an annexed district which becomes a component district of its annexing district or the new district.

4122. When the entire territory of a school district or community college district is divided and the parts thereof are included in two or more other districts, and when the allocation of funds, property and obligations is not fixed by terms, conditions, or recommendations as provided by law, the funds, property, and obligations of the former district except for bonded indebtedness, shall be allocated as herein provided:

(a) The real property and personal property and fixtures normally situated thereat shall be the property of the district in which the real property is located.

(b) All other property and funds, after all obligations except bonded indebtedness have been discharged, shall be divided pro rata among the districts in which the territory of the former district is included. The basis for the division and allocation shall be the assessed valuation of the part of the former district which is included within each of the districts.

4123. When a portion of the territory of a district is withdrawn and annexed to or included in another district or is formed into a new district and a division of funds, property, and obligations is not set forth in terms and conditions or recommendations as provided by law, the funds, property, and obligations of the district from which the territory is taken, except for bonded indebtedness, shall be allocated as herein provided:

(a) The real property and any personal property and fixtures normally situated thereat shall be the property of the district in which the real property of the district is located.

(b) Except as provided otherwise by law, all other funds, property, and obligations shall remain with the district from which the territory was taken.

4124. If all of the territory of any school district or community college district becomes part of two or more school districts or community college districts of any type, and the inclusion in the two or more new school districts or community college districts of the several portions of territory comprising the whole of the original district is effective for all purposes on the same date, the records of the original district shall be disposed of as follows:

(a) All records of the original district which are required by law to be kept on file shall be deposited with the governing board of the district which, after the reorganization has become effective for all purposes, has located within its boundaries the former office of the superintendent of the original district.

(b) Records of employees shall be transferred to the district thereafter employing the personnel or thereafter maintaining the last place of employment.

(c) Records of pupils shall be transferred to the district which, after the date on which the reorganization becomes effective for all purposes, maintains the school in which a pupil was last enrolled.

4125. If all of the territory of any school district or community college district becomes part of two or more school districts or community college districts of any type, and the inclusion in the two or more new school districts or community college districts of the several portions of territory comprising the original district is effective for all purposes on the same date, the county superintendent of schools having jurisdiction over the original district shall assume responsibility for:

- (a) Completing all records and reports of the original district.
- (b) Paying all outstanding obligations, except obligations resulting from contracts which are to be assumed by a succeeding district.
- (c) Preparing for proper filing all records of the district required to be kept permanently by the provisions of any applicable code.
- (d) Distributing records as provided in Section 4124.
- (e) Employing an auditor as required in Section 41020 or 84040.
- (f) Discharging such other functions as he shall deem necessary to the dissolution of the district.

In discharging these duties the county superintendent may request the services of employees of the original district and the succeeding districts shall release such employees to the county superintendent for the purpose of accomplishing the requirements of this section. The salaries of such employees and all other necessary expenses of completing the requirements of this section shall be charged against the accumulated funds of the dissolved district prior to the final distribution of such funds to the succeeding districts.

#### Article 8. Bond Indebtedness of School Districts

4140. When a school district or community college district is created, annexed, or abolished, or the boundaries thereof changed, the liability to taxation for the outstanding bonded indebtedness of the district or the territory affected thereby is as provided in this article. The authorities whose duty it is to levy taxes for the payment of principal and interest on the outstanding bonds, shall levy the taxes upon the districts affected in such proportions as are provided in or are determined under the authority of this article.

4141. No territory shall be taken from any school district or community college district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of the district from which the territory was taken that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for each level maintained, on the date the reorganization is effective pursuant to Section 4025.

4142. When any school district or community college district is formed from any combination of whole districts or portions of districts, the district so formed shall be liable for the outstanding

bonded indebtedness of the districts or portions of districts included in the new district. When a portion of a district is included in a new district, the amount of the outstanding bonded indebtedness to be transferred to the new district shall be in the ratio which the total assessed valuation of the portion of the district bears to the total assessed valuation of the whole district during the year immediately preceding the date of formation for all purposes.

In preparing a plan for the formation of a new district, the county committee may prescribe a different method of dividing bonded indebtedness for the purpose of providing greater equity in the division. The county committee may give consideration to assessed valuation, numbers of pupils, property values, and other matters which the county committee deems pertinent.

4143. When any high school district or unified school district, or a portion of either district, which is not in any community college district, is made a part of a community college district by any procedure authorized by this code the reorganized community college district shall be liable for taxation for any outstanding bonded indebtedness of the community college district, and if a bonded debt is created pursuant to Section 74368, the combined outstanding bonded indebtedness of the community college district and the bonded indebtedness of the included territory shall be an obligation of the reorganized community college district.

4144. When any school district or community college district is in any manner merged with one or more school districts or community college districts so as to form a single district by any procedure, the district so formed is liable for all of the outstanding bonded indebtedness of the districts united or merged.

4145. Notwithstanding any other provision of this code, for the purposes of applying the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10 of this division, the amount of outstanding bonded indebtedness, exclusive of interest, of the divided districts which is equal to the liability incurred by the acquiring district pursuant to Sections 4142 or 4147 shall be considered a liability of the acquiring district for purposes of computing bonding capacity of the district.

4146. When territory is taken from one school district or community college district and annexed to another school district or community college district and the area transferred contains no public school property or buildings, the territory shall drop any liability for outstanding bonded indebtedness in the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of the district of which it becomes a part.

4147. When territory is taken from one district and annexed to or included in another district or a new district by any procedure and the area transferred contains public school buildings or property, the district to which the territory is annexed shall take possession of the building and equipment on the day when the annexation becomes

effective for all purposes. The territory transferred shall cease to be liable for the bonded indebtedness of the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of any district of which it becomes a part.

The acquiring district shall pay the original district the greater of the amounts determined under provisions of subdivision (a) or (b).

(a) The proportionate share of the outstanding bonded indebtedness of the original district, which proportionate share shall be in the ratio which the total assessed valuation of the transferring territory bears to the total assessed valuation of the original district in the year immediately preceding the date on which the annexation is effective for all purposes. This ratio shall be used each year until the bonded indebtedness for which the acquiring district is liable has been repaid.

(b) That portion of the outstanding bonded indebtedness of the original district which was incurred for acquisition or improvement of school lots or buildings or fixtures located therein and situated in the territory transferred.

The county board of supervisors shall compute for the reorganized district an annual tax rate for bond interest and redemption which will include the bond interest and redemption on the outstanding bonded indebtedness specified in subdivision (a) or (b). The county board of supervisors shall also compute tax rates for the annual charge and use charge prescribed by former Sections 1822.2 and 1825 as they read on July 1, 1970, when such charges were established prior to November 23, 1970.

4148. Whenever an existing school district or community college district having authorized but unsold bonds is completely divided between two or more districts so that the existing district ceases to exist, pursuant to any provision of this part, the board of supervisors shall, prior to the date the action is effective for the purposes of Section 4064, make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. After the date on which the reorganization is effective for all purposes, the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

4149. When a school district or community college district is lapsed pursuant to the provisions of Article 8 (commencing with Section 35720) of Chapter 3 of Part 21 of Division 3 of Title 2, or Article 5 (commencing with Section 74670) of Chapter 5 of Part 46 of Division 7 of Title 3 and ordered by the county board of supervisors annexed to an adjoining district, authorized but unsold bonds of the annexing district may be issued by the board of supervisors in the name of the annexing district to the same extent as though the territory of the lapsed district had formed a part of the annexing district on the date of the bonds authorized. The proceeds derived from the sale of such bonds shall be used only for the purpose or purposes for which the bonds were voted and for the benefit of

the entire territory of the district following the annexation. The territory so annexed shall assume its proportionate share of the bonded indebtedness resulting from the sale of such previously authorized but unsold bonds.

4150. Any unsold bonds of an elementary, high school, unified, or community college district which is included as a whole in a new school district and authorized at an election held either prior or subsequent to the date upon which the action to form the new district pursuant to Section 4064 was completed, may be issued by the board of supervisors in the name of the new district and the proceeds derived upon the sale thereof shall be the funds of the new district; provided that the proceeds derived upon the sale thereof shall be expended only within the territory of the school district which authorized said bonds and only for the purpose or purposes for which such bonds were authorized.

Until the bonded indebtedness described in the preceding paragraph shall have been assumed by the new district any tax levied pursuant to Section 15250 for the interest and redemption of said bonds shall be levied only within the territory of the district within which said bonds were authorized.

4151. Any unsold bonds of an elementary, high school, unified, or community college district which is included as a whole in a new school district and authorized at an election held either prior or subsequent to the date upon which the action to form the new district pursuant to Section 4064 was completed, if issued by the board of supervisors in the names of the old districts, shall be considered a liability of the new district for purposes of computing the bonding capacity of the new district when applying the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10 of this division.

4152. When the territory of a school district or community college district is obligated for bonded indebtedness which has not been assumed by the district, an election may be held in the district to determine whether it shall assume the outstanding bonded indebtedness of any included districts or portions of districts. The election may be called upon the adoption of a resolution by the governing board of the district and shall be called upon petition of 10 percent of the qualified electors residing in the district. Such election shall be conducted in the same manner as elections for authorizing the sale of bonds. The ballot proposition at the election shall contain the words: "For assumption of liability for outstanding bonded indebtedness of \_\_\_\_\_ District(s)—Yes" and "For assumption of liability for outstanding bonded indebtedness of \_\_\_\_\_ District(s)—No." Such proposition shall carry if adopted by a percentage of voters prescribed by Section 18 of Article XVI of the California Constitution.

## CHAPTER 2. REORGANIZATION OF DISTRICTS

## Article 1. General Provisions

4200. It is the intent and purpose of the Legislature that the procedures prescribed by the provisions of this chapter and Article 2 (commencing with Section 4240) of this chapter be utilized primarily for the formation of unified school districts, and that this form of organization be ultimately adopted throughout the state. It is the further intent of the Legislature that in exercising the authority to approve master plans and plans and recommendations developed at the local level, the State Board of Education consider the boundaries of existing high school districts as the minimum geographical base for the organization of individual unified school districts, to be deviated from only in exceptional situations. The State Board of Education may approve proposals for the formation of districts based upon the division of the territory of existing high school districts, provided that the board has determined, with respect to the proposal and the resulting new districts that the following conditions are substantially met:

(a) That the new districts will be adequate in terms of number of pupils enrolled, having a projected average daily attendance of at least 10,000 by the beginning of the seventh fiscal year following the date that any such new district became effective for all purposes; provided that, if the assessed valuation per pupil in grades kindergarten to 12, inclusive, in the proposed new districts is greater than the statewide average assessed valuation per pupil in grades kindergarten to 12, inclusive, the board may approve of the formation where there will be an average daily attendance of more than 5,000 in the year following the date that the resulting districts would become effective for all purposes, or if the assessed valuation per pupil in grades kindergarten to 12, inclusive, in the proposed new districts is greater than the statewide average assessed valuation per pupil in grades kindergarten to 12, inclusive, the board may approve of the formation where there will be a projected average daily attendance of more than 7,000 by the beginning of the seventh fiscal year following the date that the resulting districts become effective for all purposes.

(b) That the new districts will be adequate in terms of financial ability. For purposes of determining financial ability, the board shall consider assessed valuations per pupil, revenue limits per pupil, and tax rates required for the revenue limits. For purposes of evaluating proposals pursuant to this section, the board may give such consideration as it deems appropriate to federal funds received by a school district under the act of Congress entitled "An act to provide financial assistance for local educational agencies in areas affected by federal activities, and for other purposes," approved September 30, 1950 (Public Law 874—81st Congress) or under any similar act of Congress. Except as otherwise provided in this section, the board

shall not approve of the formation of districts by division of the territory of existing high school districts, where the assessed valuation per pupil in grades kindergarten to 12, inclusive, in any of the proposed new districts varies from the average assessed valuation per pupil in such grades in all of the territory of which the proposed new districts are comprised by more than 10 percent, except that if the assessed valuation per pupil in grades kindergarten to 12, inclusive, in each and every proposed new district is greater than the statewide average assessed valuation per pupil in grades kindergarten to 12, inclusive, the board shall not approve of the formation where the assessed valuation per pupil in grades kindergarten to 12, inclusive, in any of the new districts varies by more than 15 percent from the average assessed valuation per pupil in such grades in all of the territory of which the proposed new districts are comprised.

(c) That the new districts are each organized on the basis of a substantial community identity.

(d) That the proposal will result in an equitable division of property and facilities of the original district.

(e) That the proposal and the formation of the new districts will not promote racial or ethnic discrimination or segregation. The State Board of Education may secure the advice and assistance of any other public agencies concerned with intergroup relationships for purposes of making determinations under this subdivision.

The State Board of Education may approve a proposal for the formation of two or more unified districts from the territory of a high school district if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

The board may require that proposals combine the area of existing high school districts, with respect to any proposed new or reorganized districts which would not meet the requirements prescribed by Section 41731 or come within the exceptions prescribed by Section 41733.

4201. When a proposal to unify a high school district has been defeated by the electors of a district three or more times, the county committee on school district organization may, within 18 months of the last election at which a unification proposal was defeated, submit to the State Board of Education a plan to divide such high school district into two or more unified districts, provided that such plan meets the criteria of Section 4200.

4202. Any district which became unified pursuant to the provisions of the Education Code added by Chapter 1273 of the Statutes of 1945, or as such provisions have been subsequently amended, revised, and recodified, or formed by operation of law, on or before July 1, 1948, shall be exempt from the requirements of Article 2 (commencing with Section 4240) of this chapter, and shall be deemed to be properly and adequately organized in all respects,

irrespective of failure to meet any of the standards prescribed in Sections 4200 and 4203, and irrespective of the disapproval, by the State Board of Education, of the inclusion of the district in any master plan formulated pursuant to Article 2, provided the county committee on school district organization approves of the organization of the district and the exemption thereof from the requirements of Section 4203.

The exemption granted by this section shall not prevent the subsequent reorganization of any territory of a unified school district which may have been annexed to, or transferred from, such unified school district.

4203. On or before June 4, 1968, an election shall be held within any school district territory which has not been included within a unified school district and within which no such election was held after July 1, 1964, on the question of the approval of a master plan developed under Article 2 (commencing with Section 4240) of this chapter, or plans and recommendations developed under this chapter, which will effect the reorganization of the territory involved to comply with standards prescribed. Like elections may be held in such territory at any time in odd-numbered years, and on the date of each presidential or gubernatorial primary election. Such like elections shall be called upon order of the county committee on school district organization, upon order resulting from the action of the governing boards of a majority of the school districts in the territory proposed to be reorganized, or by order resulting from the action of the governing boards of school districts which have enrolled in the schools under their collective jurisdictions a majority of the pupils in grades kindergarten through 12, inclusive, enrolled in all of the schools within the territory.

The county committee on school district organization shall, for purposes of any such election, develop any necessary master plan or plans and recommendations. In the event the county committee fails to do so, the election shall be based upon the master plan or plans and recommendations for the territory most recently approved by the State Board of Education.

A unified school district formed by operation of Section 35503 shall not be deemed to be unified for purposes of exemption from the requirements prescribed by the preceding provisions of this section, unless district conforms to the requirements prescribed by Section 41731 or Section 41733.

It is the intent and purpose of the Legislature that eligibility for the increase in foundation program provided for pursuant to Section 41735 for any school district shall be determined, for the, 1968-1969 fiscal year and fiscal years thereafter, on the basis of whether elections have been held within the time limits specified by this section.

With the approval of the State Board of Education, any school district territory in which, after June 1, 1964, and prior to July 1, 1971, two unification elections were conducted pursuant to this section

within a 12-month period, both of which elections were defeated, shall be exempt from the mandatory election provisions of this section.

4204. Any unified school district that became unified by operation of law as a result of the enactment of the provisions of Article 8 (commencing with Section 35720) of Chapter 3 of Part 21 of Division 3 of Title 2 or Article 5 (commencing with Section 74670) of Chapter 5 of Part 46 of Division 7 of Title 3 shall be deemed to be properly and adequately organized in all respects for purposes of Sections 14730 and 14731.

4205. Notwithstanding any provision of this chapter to the contrary, whenever final plans and recommendations for the formation of a unified school district are formulated and transmitted by the county committee on school district organization to the State Board of Education for approval, and the State Board of Education disapproves such final plans and recommendations, the county superintendent of schools shall, except where such final plans and recommendations do not meet the requirements set forth in Section 4200 or any other applicable law, call, hold, and conduct, in the manner specified in Chapter 3 (commencing with Section 5300) of Part 4 of this division, a special election in the districts included in whole or in part in the final plans and recommendations for the purpose of adopting or rejecting the final plans and recommendations. Whenever the State Board of Education disapproves such final plans and recommendations, the board shall set forth the reasons for such disapproval which shall be based only on statutory grounds.

The county superintendent of schools shall certify the results of such special election to the county board of supervisors, and if the final plans and recommendations of the county committee on school district organization are approved by two-thirds of all the votes cast at the special election, the county board of supervisors shall then issue the necessary orders and take such other action as is set forth in Section 4025. The approval by the voters of the final plans and recommendations at the special election and the subsequent orders and actions taken by the board of supervisors pursuant to Section 4025 shall be effective for all purposes for the formation of the unified school district in accordance with Section 4064.

4206. As used in this chapter "unified school district" means a unified school district formed under this chapter.

4207. As used in this chapter "reorganization" means the formation, annexation, transfer, uniting, unification, unionization, merger, division, transfer of territory, or change of boundaries, of school districts authorized by this code.

4208. Each county superintendent of schools, every other county officer, and officers or employees of any school district in any county shall furnish to the county committee any records, reports, documents, maps, or other data pertaining to the survey of the area by the county committee and shall confer with the county

committee concerning the problems of such county or portion thereof, when requested to do so by the county committee.

4209. If the reorganization of a school district under this chapter results in the relocation of district boundaries so that a portion of the students will not be residents of the district thereafter maintaining a school previously attended by the students, and if there is in the school an organized student body, the property, funds, and obligations of the student body shall be divided as determined by the committee except that the share shall not exceed an amount equal to the ratio which the number of students leaving the school bears to the total number of students enrolled. The ownership of the property, funds, and obligations, which is the proportionate share of each segment of the student body, shall be transferred to the student body of the school or schools in which the students are first enrolled during the school year next succeeding the reorganization. Funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided.

4210. (a) An elementary school which has been included in a unified district because of a reorganization of districts under provisions of this chapter shall be maintained as an elementary school by the unified district unless discontinued as provided in this section. The governing board of the unified district may adopt a resolution or order to discontinue the elementary school at any regular or special meeting of the board and the order or resolution shall be in effect after 30 days unless within this period of time a petition is filed with the governing board requesting the continuance of the school signed by the parents or guardians of at least 10 or one-third, whichever number is the greater, of children of elementary school age, who are eligible to attend such school at the time of the petition. The signature of one parent is sufficient to represent all of the children of such parent. The parents or guardians eligible to sign such petitions shall be residents within the boundaries of the component elementary school district which maintained the school prior to the establishment of the unified school district, and shall be qualified electors within such district at the time the petition is filed, and shall have children of elementary school age who attend or are eligible to attend such school. An elementary school which is continued in operation by the filing of a petition pursuant to this section, shall remain in continuance for a period of three school years, unless the petition provides for a shorter period of continuance. If the governing board intends to discontinue the elementary school at the expiration of such period, it shall, commencing at least 90 days prior to the expiration of such period, publish in a newspaper of general circulation in the county, once each week for at least three weeks, a notice of intended discontinuance, and may thereafter adopt a resolution or order as heretofore provided. If a school is discontinued as herein provided, the governing board of the unified school district may maintain the

building for community and civic center and other lawful purposes.

(b) Subdivision (a) of this section does not apply to any unified school district which has an average daily attendance of 15,000 or more or to a school which is five miles or less from another elementary school.

4211. The county committee shall prepare and submit to the Superintendent of Public Instruction, upon his request, a report and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities.

4212. The formation of a unified school district shall be deemed a unification of school districts within the meaning of Sections 44902 or 87464 and 44903.

4213. Any employee, other than special teachers, whose assignment to duties is on a districtwide level and requires certification qualifications, and any principal, in any school district, which district is included in whole in a new school district and does not constitute a component district of the new district, shall continue as an employee of the new school district under the terms of his then current contract; providing that the term of such employment shall not be less than two years; and provided also, that the governing board of the new school district may make any reasonable reassignment of his duties.

If any school district is included in part in a new district and does not constitute a component district of the new district any employee, other than special teachers, in a position requiring certification qualifications and whose assignment to duties is on a districtwide level may elect to remain an employee of the original district or to become an employee of the new district and accept employment as provided in the first paragraph of this section.

If all the territory of any school district becomes part of two or more new districts and the inclusion in the two or more new districts of the several portions of territory comprising the whole of such district is effective for all purposes upon the same date, any principal shall continue as an employee of the new district in which the school to which he was assigned is included, and any employee, other than special teachers, in a position requiring certification qualifications and whose assignment to duties is on a districtwide level shall continue as an employee of one of the new districts in which a portion of the former district is included, at the election of such employee. Continued employment shall be under the terms of the employee's current contract; providing that the term of such employment shall not be less than two years; and provided also, that the governing board of the new school district may make any reasonable reassignment of his duties.

4214. All provisions of this code relating to unified school districts not in conflict with, or inconsistent with this chapter apply to unified

school districts formed under this chapter and are hereby made a part of this chapter with the same force and effect as though set forth in this chapter as a part hereof.

4215. At any public meeting held pursuant to law concerning a proposed recommendation for the reorganization of a school district or a change in school district boundaries at which members of the county committee or the county superintendent of schools, or a representative of such committee or superintendent, participate and present their views on the recommendation, the agency conducting such meeting shall give reasonable notice of the time and place thereof to the governing board of any school district actually or prospectively affected by such recommendation, and the members of any such board, or their representative, shall be given a reasonable opportunity to express their views on the recommendation at such meeting.

4216. Any circular, pamphlet, letter, poster, or other campaign literature which is designed to promote either the passage or defeat of a ballot measure proposing the unification of school districts shall bear on its face, in a conspicuous place, either:

(a) The names and residence addresses of the chairman and secretary or the names and residence addresses of at least two officers of the organization issuing it, if issued by an organization; or

(b) The name and residence address, with the street and number, if any, of any individual responsible for it, if issued by an individual or individuals.

If any person eligible to vote upon such ballot measure has reason to believe that such campaign literature contains false and misleading statements, he may maintain an action in the superior court for injunctive relief against further circulation of the literature, and if the court finds that the literature does in fact contain false and misleading statements, it may enjoin any further circulation of the literature.

## Article 2. County Master Plans for School District Organization

4240. This article shall be administered by the Superintendent of Public Instruction.

4241. The State Board of Education shall adopt rules and regulations, not inconsistent with the provisions of this chapter, to carry out the provisions of this article.

4242. On or before September 15, 1963, each county committee shall prepare and submit to the State Board of Education a master plan for including all the territory of the county, including territory of adjacent counties where necessary, in school districts so that each school district shall provide an educational program including all grades from kindergarten or grade 1 through grade 12 together with other types of reorganization which would constitute intermediate steps to the establishment of districts operating all grades through grade 12. The master plan may include consideration of grades 13

and 14 and the establishment of districts for the provision of an educational program for these grades.

4243. The State Board of Education may extend for any period not extending beyond September 15, 1964, the date specified by Section 4242 for submission of a master plan, whenever it determines that the county committee seeking such extension of time has made substantial progress in its studies relating to the plan, and that difficulties peculiar to that county or locality have prevented formulation of a satisfactory plan on or before September 15, 1963.

4244. If a county committee fails to prepare and submit a master plan on or before September 15, 1963, the State Department of Education shall prepare the master plan for the county, and shall, on or before September 15, 1965, submit it to the State Board of Education for its approval.

4245. Within one year after the approval of a master plan by the State Board of Education a county committee may make alterations in the master plan and submit such alterations to the State Board of Education for its approval.

4246. The State Board of Education may approve all or any portion of a master plan or alterations thereof submitted by a county committee. When the State Board of Education approves all or part of a master plan it shall notify the county superintendent of schools and the county board of supervisors of the county or counties involved.

4247. Any elections required to carry out the proposals of a master plan or alterations of the master plan shall be called and conducted by the county superintendent of schools of the county in which all or the greater portion of the area is situated at the time recommended by the county committee but shall be held within two years after the date upon which the State Board of Education notifies the county superintendent of its approval.

4248. The procedures contained in this chapter, except Article 2 (commencing with Section 4240), and Article 11 (commencing with Section 35780) and Article 12 (commencing with Section 35800) of Chapter 3 of Part 21 of Division 2 of Title 2 shall be used in the study and preparation of the master plan. Nothing in this chapter shall prohibit a county committee from making plans and recommendations, as authorized by this chapter, except Article 2 (commencing with Section 4240), and Article 11 (commencing with Section 35780) and Article 12 (commencing with Section 35800) of Chapter 3 of Part 21 of Division 2 of Title 2 of this division, prior to the time when the State Board of Education approves the master plan for the county.

4249. If the State Board of Education does not approve all or any part of a master plan submitted by a county committee the board shall so notify the committee setting forth the reasons for not approving and the nature of additional data or study which it deems necessary. The county committee shall thereupon reconsider the matter and resubmit a plan covering the area, the original plan for

which was not approved, within six months from the date of the notice from the State Board of Education.

4250. A unified school district whose formation involved the division of a high school district and whose formation was approved by the State Board of Education and by the electorate of the school district at an election held on December 10, 1968, shall be a unified school district organized for all purposes in accordance with the standards and requirements prescribed by this division, and the territory included in the district shall not be subject to unification pursuant to the county master plan for school district organization; nor shall it be subject to the provisions of Article 3 (commencing with Section 41750) and Article 4 (commencing with Section 41760) of Chapter 5, and Chapter 8 (commencing with Section 42400) of Part 24 of Division 3 of Title 2, which relate to the computation of areawide aid for purposes of state apportionments and the levy and collection of areawide taxes.

### Article 3. Statewide Survey of School Districts

4280. The State Board of Education or board of governors as the case may be, shall

(a) Determine policies for, direct, and govern a statewide survey of all school districts for the purpose of effecting feasible unifications or other reorganizations of school districts.

(b) Approve plans formulated by county committees for the unification or other reorganization of school districts prior to the submission of the plans to the people of the areas affected for approval.

(c) Establish standards which shall be applied in approving plans for the unification or other reorganization of school districts.

(d) Utilize the resources, records, and personnel of the State Department of Education, or Chancellor's office of the California Community Colleges, as the case may be, whenever advantageous in carrying out the provisions of this chapter.

4281. In order to establish a system of unified districts throughout the state it is the intent of the Legislature that plans and recommendations for the establishment of unified districts proposed under provisions of Article 1 (commencing with Section 4200) and Article 2 (commencing with Section 4240) of this chapter, approved by the State Board of Education, and by the electors, shall supersede any organization or reorganization accomplished under other provisions of this code.

### Article 4. County Committees on School District Organization

4290. There is in each county, except a county which is also a city and county, a county committee on school district organization. The number of members of the county committee in each county shall be determined as provided in this article.

4291. If all of the territory of a county under the jurisdiction of the county superintendent of schools of the county is included in one unified school district the governing board of the unified school district shall constitute the county committee.

4292. Except as provided in Section 4291, if there are less than six districts under the jurisdiction of the county superintendent of schools of the county, he shall determine the number of, and appoint, the members of the county committee.

4293. In every county with six or more school districts or community college districts under the jurisdiction of the county superintendent of schools of the county, the county committee on school district organization shall have 11 members. A majority of the representatives of the governing boards, provided for in Section 35023 or 72403, at their annual meeting shall elect the members of the county committee to fill vacancies that will be created by the expiration of terms of office. No action to elect members of a county committee shall be taken at an annual meeting unless a quorum of the representatives is present.

An annual meeting of the representatives shall be called by the county superintendent of schools which shall be held between October 1 and December 1. Notice of the meeting shall be deemed sufficient and complete when deposited in the United States mail with postage prepaid, addressed to the clerk or secretary of the governing board of each district.

If the representatives fail to elect members of the county committee, the county superintendent of schools shall appoint the members.

4294. If the number of districts in a county with six or more districts decreases to less than six, Section 4291 or 4292, as the case may be, shall apply or if the number of districts in a county with less than six districts increases to six or more, Section 4293 shall apply. Each member of the county committee of a county in which such a change occurs shall serve out his term of office.

4295. Neither the county superintendent of schools nor any member of his staff nor any employee of a school district or community college district shall be a member of the county committee. At least two members of the county committee shall be elected from among the qualified electors of each county supervisorial district in the county.

4296. The term of office of each member of the county committee shall begin upon election or appointment pursuant to Sections 4292 and 4293 and shall be for four years and until his successor is elected or appointed, as the case may be, and qualified. The terms of the members first selected shall be determined by lot so that as nearly as possible thereafter one-fourth ( $\frac{1}{4}$ ) of the members shall be elected annually.

4297. Vacancies in the membership of the county committee are caused by the happening of any of the events specified in Section 1770 of the Government Code. In a county in which the members of

the county committee are appointed by the county superintendent of schools, he shall fill any vacancies. In a county in which the members of the county committee are elected by the representatives of the governing boards, vacancies shall be filled by the remaining members of the committee or, if they fail to fill such vacancies with qualified electors within 60 days, by the county superintendent of schools. Persons appointed to fill such vacancies shall hold office for the completion of the unexpired term.

4298. The members of the county committee shall serve without pay, but they shall receive their actual and necessary travel expenses incurred in the performance of their duties. The expenses shall be allowed by the board of supervisors, and be paid out of the county general fund.

4299. Funds for secretarial and stenographic services for county committee may be allowed by the board of supervisors, and shall be paid out of the county general fund.

4300. (a) The county counsel, or if there is no county counsel, the district attorney, may provide legal services to the county committee.

(b) In the event that the county counsel, or if there is no county counsel, the district attorney, is unable to provide legal services, the board of supervisors may provide the county committee with private legal counsel to be selected by the committee.

4301. The county committee shall organize by electing from its membership a chairman and a vice chairman. The county superintendent of schools shall act as the secretary of the county committee. Meetings of the county committee shall be held upon call of the chairman or of a majority of the members thereof. The first meeting of the county committee shall be held within 30 days after election or appointment on a call issued by the county superintendent of schools. A majority of the county committee shall constitute a quorum.

#### Article 5. County Administration of District Organization

4310. Upon order of the State Board of Education the county board of education of a county succeeds to and is vested with all duties, powers, purposes, responsibilities and jurisdiction vested in the county committee on school district organization in the county.

4311. Wherever in this division the phrases or terms "county committee on school district organization," "county committee," or "committee" or their variants are used, such terms shall be construed to refer to and mean a county board of education which has been ordered to act as a county committee on school district organization pursuant to Section 4310.

4312. Upon petition by a county committee of school district organization of a county or of the county board of education of such county, the State Board of Education may order that the county board of education act as a county committee of school district

organization pursuant to Section 4310. Within 90 days after receiving the petition the State Board of Education or the board of governors as the case may be, shall approve or reject the petition, and issue an appropriate order thereon.

Article 6. Formulation of Plans and Recommendations for the Organization and Reorganization of Districts

4320. Each county committee shall study the school district or community college district organization of the county and shall, under the direction of the State Board of Education, or the board of governors as the case may be, formulate plans and recommendations for the unification or other reorganization of the districts in the county or any portion thereof including, if necessary, a portion of one or more adjacent counties. The county committee may formulate plans and recommendations for the formation of a unified district comprising less than a high school district as an intermediate step to the unification of territory of the high school district, provided that all such plans and recommendations meet the requirements of Section 4200. It shall transmit the final plans and recommendations to the State Board of Education or Board of Governors of the California Community Colleges, as the case may be.

4321. On receipt of a petition signed by at least 10 percent or 250, whichever is the lesser, of the qualified electors residing in any district for a consideration of unification or other reorganization of any area, the county committee shall hold a public hearing and determine, following such hearing, whether the committee shall study further the matter petitioned in the manner herein described in this chapter. If the petition involves territory already under study by the county committee, no further hearings shall be required.

The public hearing required by this section shall be called by:

(a) Sending a notice to the governing board of each school district or community college district involved at least 10 days prior to the hearing, and

(b) Posting a notice of the hearing as provided in Section 5362 or publishing a notice of the hearing as provided in Section 5363.

The notices shall contain information as to the time, place, and purpose of the hearing.

4322. The county committee may select all or any portion of the county to be studied for possible recommendations for reorganization. The territory selected may include portions of one or more adjacent counties.

4323. At any time, and from time to time, after the county committee has selected all or any part of the county for study for possible recommendation for reorganization and prior to the adoption by the county committee of plans and recommendations for unification or other reorganization, a majority of the county committee may change the territory selected for study for possible recommendation for reorganization.

4324. Notice of each meeting of the committee shall be mailed to all members by the county superintendent of schools at least 10 days prior to the date of such meeting.

4325. The county committee shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization at least 30 days prior to submission of a final recommendation for unification or other reorganization to the State Board of Education or the board of governors as the case may be. The public hearing shall be called in the same manner as specified in Section 4321.

4326. No final recommendation for reorganization to be submitted to the State Board of Education or the board of governors as the case may be, shall be made until the county committee has adopted the recommendation by a majority of all entitled to vote and no such action shall be taken prior to the public hearing specified in Section 4325.

4327. Prior to submitting plans and recommendations for the unification of a school district or districts to the State Board of Education and for the purposes of Section 4405 the county committee shall notify, in writing, the board of supervisors of each county affected.

4328. When a county committee selects an area for study for possible recommendation for reorganization which includes territory of one or more school districts or community college districts under the jurisdiction of the county superintendent of schools of another county, the county committee shall so notify the members of the county committee of such other county. Thereafter the members of the county committee of such other county shall be notified by mail of each public hearing or meeting of the county committee at which the proposed reorganization will be considered at least 10 days prior to the day of such hearing or meeting.

4329. If plans and recommendations adopted by a county committee propose changes in the boundaries or status of school districts or community college districts under the jurisdiction of the superintendent of any adjacent county, the county committee of each such adjacent county shall be requested in writing to concur in the plans and recommendations.

If the county committee of an adjacent county concurs in the plans and recommendations, the concurrence shall accompany the recommendations transmitted to the State Board of Education or the board of governors as the case may be. The adoption and consideration of a resolution of concurrence by such committee or committees shall not be subject to the provisions of Section 4322, 4323, 4325, and 4326.

If the county committee of an adjacent county fails to respond to the request for concurrence within 90 days of the date of the request, such failure shall be deemed to be a concurrence in the plans and recommendations.

If a county committee of an adjacent county does not concur in the

plans and recommendations, it shall so notify the other county committee in writing and accompany the notification with plans and recommendations for the reorganization of school districts or community college districts of its county including territory that would be affected by the plans and recommendations of the other county committee. After 60 days from the notification of nonconcurrence, if the county committees are still unable to agree upon plans and recommendations for reorganization of the territory, the county committees, or any of them, may submit plans and recommendations to the State Board of Education or the board of governors as the case may be, and the board may approve or reject the plans, or any of them, in the same manner as other plans and recommendations.

#### Article 7. Contents of Plans and Recommendations

4360. After September 17, 1965, the plans and recommendations formulated by the county committee may, in connection with the proposed formation of a new unified school district to include within its boundaries a chartered city the boundaries of which will not be coterminous with those of the unified district, provide that the establishment and existence of the governing board of the district shall be governed exclusively by general law and not by the charter of the city. Upon adoption of plans and recommendations containing such provision, the establishment and existence of the governing board of the district shall thenceforth be governed exclusively by the general law and the board shall not be a city board of education of a chartered city, any provisions of Chapter 2 (commencing with Section 5200) of Part 4 of this division to the contrary notwithstanding.

4362. The plans and recommendations formulated by the county committee may include recommendations with reference to the location of school building or buildings after reorganization is accomplished. Suggestions made in accordance with this section shall not be considered a part of the reorganization proposition to be voted upon at the election for the adoption or rejection of the plans and recommendations of the county committee.

4363. In any proposal for unification or for the formation of a community college district recommended by a county committee, the county committee may include a provision for a governing board of either five or seven members and may include a provision for trustee areas. In establishing trustee areas each county committee shall provide for representation in accordance with population and geographic factors of the entire area of the unified school district or community college district. As many trustee areas as needed, not to exceed seven, may be established. The county committee shall designate the number of members of the governing board to be elected from among the registered voters of each trustee area so that a governing board of either five or seven members is provided. If the

committee includes a provision for trustee areas, it shall also include a provision for the election of members of the governing board by the registered voters of the entire school district or community college district or for the election of the member or members residing in each trustee area by the registered voters of that particular trustee area.

Provisions regarding the number of trustees or trustee areas and the election of trustees by the district at large or by the registered voters of each particular trustee area shall be considered as an inherent part of the proposal and not to be construed as a separate proposition. A provision for trustee areas shall indicate the boundaries of the proposed trustee areas.

4364. In any proposal for reorganization of school districts, except a community college district, recommended by a county committee, the committee shall include a provision for the authorization of a revenue limit per unit of average daily attendance for the proposed new district, and such provision shall be an inherent part of the proposal, and shall not be construed as a separate proposition. If the reorganization is approved by the registered voters of the area, such revenue limit per unit of average daily attendance shall be the maximum revenue limit per unit of average daily attendance for the type of new district formed until changed by Section 42238 or by the registered voters of the district in the manner prescribed in Section 42202. Such revenue limit per unit of average daily attendance shall not be less than the revenue limit which would be produced if (1) for the year prior to the fiscal year in which the reorganization becomes effective for all purposes, the sum of the revenue limit of each of the districts proposed to be wholly included and the proportional share of revenue limit of each district to be partially included in the proposed reorganized district is divided by the total number of units of average daily attendance that would have been in the proposed reorganized district had it been reorganized the year prior to the fiscal year in which the reorganization becomes effective for all purposes plus, (2) the revenue limit per unit of average daily attendance required to equal the amount of the difference between the average certificated and the average classified salary of all the component districts during the school year prior to that in which the district becomes effective for all purposes and the average certificated and average classified salary of high school district or districts included in the proposal multiplied by the number of employees in each category at the elementary level plus (3) the estimated adjustment to the revenue limit per average daily attendance pursuant to Section 42238 that the proposed reorganized district would be allowed had it been reorganized the year prior to the fiscal year in which the reorganization becomes effective for all purposes. In the event the salary schedule of an included elementary district or unified district is higher than that of a high school district, the county committee may for the purpose of determining a revenue limit under this section substitute that elementary or unified district

salary schedule for the high school district schedule.

This section shall be subject to Section 42245.

4365. The county committee may propose a revenue limit per unit of average daily attendance in excess of that provided in Section 4364 as a separate proposition. The ballot proposition shall contain substantially the words "Shall the revenue limit per unit of average daily attendance of the proposed new district be \_\_\_\_\_, such limit to be in effect for the school years \_\_\_\_\_ through \_\_\_\_\_, the funds from such revenue limit are to be used for \_\_\_\_\_ (insert proposed uses of the funds)?" or the words "Shall the revenue limit per unit of average daily attendance of the proposed new district be \_\_\_\_\_, such limit to be in effect for the school years commencing 19\_\_\_\_, the funds so raised are to be used for \_\_\_\_\_ (insert proposed uses of funds)?" Opposite such words in separate lines, the words "Yes" and "No" shall be printed with a voting square after each word. In the event the committee proposes a revenue limit per unit of average daily attendance under the provisions of both this section and Section 4364, the revenue limit per unit of average daily attendance proposed under this section shall be the revenue limit per unit of average daily attendance for the district if a majority of the votes cast are in favor of the proposition.

4366. The plans and recommendations for the formation of a new community college district formulated by the county committee may include recommendations to authorize the issuance of bonds by the new district in an amount determined by the county committee, all or a part of which may be used for purposes designated by the committee but not in conflict with Article 1 (commencing with Section 15100) of Chapter 2 of Part 10 of this division. The acquisition by a community college district formed in accordance with plans and recommendations adopted pursuant to this chapter from a high school district or unified school district of community college facilities of such high school district or unified school district shall be a purpose for which school district bonds may be issued and sold pursuant to Chapter 2 (commencing with Section 15100) of Part 10 of this division.

The transfer of funds derived from the issuance and sale of bonds by a community college district formed as a preliminary step to the inclusion of such district in a larger community college district pursuant to Section 74017, where such transfer of funds is to be made to the larger community college district, shall be a purpose for which school district bonds may be issued and sold pursuant to Chapter 2 (commencing with Section 15100) of Part 10 of this division.

4367. A recommendation made pursuant to Section 4366 shall be voted upon as a separate proposition at the election for the adoption or rejection of the plans and recommendations for the formation of the new community college district. The recommendation made pursuant to Section 4366 shall become effective if the percentage of votes required for the passage of the bond issue as provided in Section 18, of Article XVI of the Constitution are cast in favor of the

proposition for issuance of the bonds. The county committee may provide that the proposed districts shall not be formed unless the recommendation provided for in Section 4366 is approved.

4368. The county committee may propose plans and recommendations which include either one or both of the following provisions:

(a) Plans for the use of the school property of the districts proposed to be wholly or partially included in a new district, as provided in Section 4372.

(b) Plans for dividing the property, other than real property, of any school district proposed to be divided between two or more school districts, or proposed to be partially included in one or more school districts.

4369. Whenever the county committee on school district organization has provided for the formation of two unified districts, from the territory of two high school districts in which such districts a component elementary district lies partly in one and partly in the other, in its plans and recommendations, and it includes in the plans for the formation of the districts provisions for the division of the property, except real property, of such elementary district between the proposed unified districts and as a result of the elections held on the same day to form the districts only one such unified district was formed, the provisions for the division of property shall be null and void and the property shall be settled as provided in subdivision (a) of Section 4122. Other property shall be divided in proportion to average daily attendance. When it is not feasible to make an actual distribution of property a cash settlement may be made in lieu thereof.

4370. The plans and recommendations formulated by a committee may provide for the division of funds (including cash on hand and moneys due but uncollected on the date reorganization becomes effective for all purposes, and state apportionments based on average daily attendance earned in the year immediately preceding the date reorganization becomes effective for all purposes), obligations, other than bonded indebtedness, and property, other than real property, of a district whose territory is proposed to be divided. In providing for this division, the committee may consider the assessed valuation of each portion of the district, the number of children of school age residing in each portion of the district, the value and location of the school property, and such other matters as the members of the committee deem important and pertinent.

The amendment of this section made by the 1963 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

4371. During the first fiscal year of the existence of a newly formed unified school district, including districts which became effective for all purposes on July 1, 1953, under the provisions of this chapter the county superintendent of schools having jurisdiction

over the districts affected shall draw his requisition upon the county auditor to the credit of the districts affected in the amounts necessary to accomplish the division of funds required by Section 4370.

4372. When the county committee includes in its plans and recommendations proposals for the use of the school property of the component districts as provided in Section 4368, such proposal shall be deemed to be an integral part of the plans and recommendations, and a favorable vote on the question of reorganization, as provided in Article 8 (commencing with Section 4400) of this chapter, shall be deemed to be a favorable vote upon the plans and recommendations as a whole.

4373. Whenever the county committee on school district organization has adopted plans and recommendations for the formation of two or more unified school districts from the territory of one or more high school or unified districts or any combination thereof, it may also provide that the plans and recommendations shall be voted on as a single proposition. If a majority vote is cast in favor of the proposition, the proposed districts shall become effective as provided in Section 4064.

4374. Whenever the county committee on school district organization has adopted plans and recommendations for the formation of two or more unified school districts from the territory of one or more high school or unified districts or any combination thereof, the county committee may also provide that if the election to form the districts is held pursuant to Section 4373, the provisions of Article 3 (commencing with Section 41750) and Article 4 (commencing with Section 41760) of Chapter 5, and Chapter 8 (commencing with Section 42400) of Part 24 of Division 3 of Title 2 relating to areawide taxes, shall apply to the territory included in the proposition; provided that the county committee may fix the rate of the areawide tax, which rate shall not exceed the maximum tax rate computed under Section 4364 nor be less than that provided in Article 1 (commencing with Section 42400) and Article 2 (commencing with Section 42420) of Chapter 8 of Part 24 of Division 3 of Title 2.

4375. If the plans and recommendations of a county committee for an area provide for the exclusion of territory from a school district for the formation of a new district, the county committee shall determine if as to that district the election shall be held only in such territory. For plans and recommendations formed pursuant to Sections 4240 to 4249 for the formation of a new district the county committee shall determine the territory in which the election shall be held. The election shall be held in the district or portion thereof in accordance with such determination.

4376. When an elementary school district is excluded from a unification proposal, the elementary school district may, on petition of the governing board of the district, be joined to a contiguous high school district or unified district, within three years after the effective date of the unification proposal.

The petition shall be submitted to the board of supervisors of the county, the superintendent of schools of which has jurisdiction of the high school district or unified school district to which joinder is being sought. At the time of submitting such petition to the county board of supervisors, the governing board of the elementary school district shall also submit copies of the petition to the governing board of the high school district or the unified school district to which joinder is being sought. Within 60 days following the date upon which the petition was submitted to the county board of supervisors, that board shall issue an order effecting the joinder of the elementary school district to the high school district or unified school district, unless a formally adopted written protest to such joinder has in the meantime been submitted to the board of supervisors by the governing board of such high school district or unified school district.

If the elementary district, as a result of being excluded from the unification, becomes a unified district because its boundaries are coterminous with the boundaries of a high school district, it shall automatically again become an elementary district upon joining a contiguous high school district pursuant to this section.

#### Article 8. Approval and Adoption of Plans and Recommendations

4400. After the State Board of Education or the board of governors, as the case may be, has approved the plans and recommendations for the unification or other reorganization of the school districts or community college districts in any area, the secretary of the State Board of Education, or the board of governors as the case may be, shall give notice of the approval to the county superintendent of schools having jurisdiction over any of the districts whose boundaries or status would be affected by the reorganization as proposed.

4401. When a county committee submits a proposal providing for a reorganization of districts other than the formation of a new district, the approval of the proposal by the State Board of Education or the board of governors as the case may be, shall be deemed to be the filing of a verified petition with the county superintendent of schools, and the proposed reorganization of districts shall then be acted upon in accordance with the applicable provisions of law, except that not less than 30 days prior to action by the State Board of Education, or the board of governors as the case may be, the county committee shall conduct a public hearing as provided in Section 4325. After approval by the State Board of Education, or the board of governors as the case may be, the county superintendent of schools shall set the matter for hearing or for an election to decide the adoption or rejection of the proposal.

4402. Except as otherwise provided in Section 4375, the county superintendent of schools shall call, hold, and conduct, in the manner prescribed in Part 4 (commencing with Section 5000), a special

election in the elementary school district or unified school district, or districts included in whole or in part in the plans and recommendations of the county committee or committees for the formation of a unified school district for the purpose of adopting or rejecting the plans and recommendations.

4403. Proposals of the county committee on school district organization or proposals of the State Department of Education or of the Board of Governors of the California Community Colleges made pursuant to this chapter or approved at an election held under provisions of Part 46 (commencing with Section 74000) of Division 7 of Title 3 shall supersede any previous actions to organize or reorganize the districts of the territory.

4404. Proposals of the county committee on school district organization to annex all or part of some territory to a community college district may provide that an election be held in the territory as a whole, rather than by separate school districts, for the purpose of adopting or rejecting the plans and recommendations.

4405. The election required by Section 4402 shall be held in the school year in which the county superintendent of schools was given notice of the approval of the plans and recommendations by the State Board of Education, or the board of governors as the case may be, except that if the notice is not received on or before May 1, the election may be held during the following school year.

If the notice to the board of supervisors required by Section 4327 is not given on or before April 1 of the school year preceding notice by the State Board of Education or the board of governors as the case may be, under Section 4400, and if funds are not available for the conduct of the election, the board of supervisors of any such county may require the county superintendent of schools charged with the duty of holding the election on such plans and recommendations to postpone the holding of the election until on or after July 1 of the school year following the notice required by Section 4327.

4406. At least 10 days prior to the election the county committee or committees shall hold one or more public hearings within the area included in a proposal for unification. The county committee or committees may designate any member to hold and conduct any public hearing required to be held. The hearing shall be called by the county superintendent of schools, who shall post a notice of the hearing as provided in Section 5363 or publish a notice of the hearing as provided in Section 5364.

4407. The county superintendent of schools calling such election shall cause to be prepared and distributed, at least 10 days prior to the election, to each registered voter in each such district or portion of a district, as the case may be, in which the election is to be held a copy of the recommendations of the county committee. The copy of the recommendations shall include any proposal made in accordance with Section 4363.

4408. The county superintendent of schools shall prepare a statement of official information and statistics relating to the

proposed new unified area which shall include but is not limited to the assessed valuation, the tax rate, the rate of growth, the expected enrollment and the support from the state which can be expected if such area maintains an adequate school program. Such statistics shall be based upon the school year last completed before the date of the election. Upon approval by the State Department of Education the statement of official information shall be distributed to each registered elector in the proposed new unified area by the county superintendent of schools.

4409. The statement of official information and statistics prepared and distributed pursuant to Section 4408 in connection with proposals including the provisions specified in Section 4364 shall contain a statement by the county committee, of the amount by which the maximum tax rate, as shown on the ballot, of the new district, would be required to be increased in order to produce an amount of revenue equal to the sum of the revenues of each of the districts proposed to be partially or wholly included therein produced by all of the taxes levied, pursuant to statutes authorizing taxes to be levied for particular purposes without compliance with Section 85112, in such districts during the school year prior to the fiscal year in which the election for reorganization was held.

4410. The county superintendent of schools calling the election shall cause to be prepared and distributed a statement setting forth arguments for and against the recommendations of the county committee. The argument shall not exceed 500 words. The argument in favor of the recommendations shall be prepared by the chairman of the county committee, or by a proponent of the recommendations designated by the chairman. The argument against the recommendations shall be prepared by a member of the county committee who voted against the recommendations, or, if there be none, by an elector designated by the county superintendent of schools who has appeared before the committee or at a public hearing in opposition to the recommendations.

4411. The cost of preparation and distribution of the statement setting forth the arguments in favor of, and those opposed to, the recommendations of county committees and the cost of any election held hereunder shall be a charge against the general fund of the county in which the elementary school district or unified district is situated. If such district is situated in more than one county, the cost shall be prorated against each county in the same proportion as the assessed valuation of the district lying in such county bears to the total assessed valuation of the district.

When the election is held in more than one county because the recommendation of the committee calls for the formation of a new district situated in more than one county, the cost of the election shall be prorated against each county in the same proportion as the assessed valuation of the territory of the proposed new district lying in such county bears to the total assessed valuation of the proposed new district.

4412. Every qualified elector residing within the boundaries of each elementary school district or unified school district, or community college district or portion of district, as the case may be, in which the election is called shall be eligible to vote at such election.

4413. If the proposal for reorganization involves a question as to whether a countywide unified school district shall be established, the proposal may be submitted at a special election or at an election consolidated with a general, county or statewide election. If so consolidated, the polling places shall be those used in the general election. Consolidation with a statewide election shall be effected pursuant to Section 23314 of the Elections Code.

4414. Notwithstanding any other provisions of this code, proposals in a county master plan to form unified school districts providing in part for the division of each of two or more high school districts, and which include two or more existing unified school districts in the proposals, shall be voted upon by the electors of all the territory included in the county master plan at a single election. The results of such election shall in no way change the organizational status of the existing unified school districts. If a majority of votes is cast in favor of the proposals in any of the proposed unified school districts, the unified school district proposed is approved and formed. If a majority of votes is not cast in favor of the proposals in any of the proposed unified school districts, the unified school districts proposed are not approved and formed.

A county master plan provided for in this section shall be submitted to the State Board of Education on or before December 31, 1969. After approval by the State Board of Education, the county superintendent of schools shall set an election to decide the adoption or rejection of the proposals on or before June 2, 1970. Succeeding elections shall be made pursuant to this article.

If the proposals are either approved or disapproved at such election, the territory included within the entire county master plan, including the two or more existing unified school districts, shall be subject to the provisions of Sections 41750, 41762, 41763 and 41769, and the provision of Chapter 8 (commencing with Section 42400) of Part 24 of Division 3 of Title 2.

For the purposes of approving proposed new unified school districts under this code section the State Board of Education shall consider subdivisions (a), (c), (d), and (e) of Section 4200.

4415. In any proposal to form a community college district which includes territory of high school or unified districts maintaining community colleges, the county committee may include a provision for the authorization of a tax rate for the community college district of not more than ten cents (\$.10) for a period of not more than 10 years, which shall be in addition to the maximum rate of tax for such districts established pursuant to Section 85112, the proceeds of which shall be used only for the purpose of paying all or a portion of the cost of acquiring real and personal property used for community college

purposes by such districts.

The property shall be acquired on such terms as may be agreed upon by the governing boards of the community college district and the high school and unified districts concerned.

The provisions authorized by this section shall be considered an integral part of the plans and recommendations of the county committee and shall not be construed as a separate proposition.

In event the revenue from the tax authorized by this section exceeds that which is needed for the acquisition of the property, the excess shall be deposited to the credit of the special reserve fund of the community college district.

4416. The words to appear upon the ballots used for voting upon the adoption or rejection of the plans and recommendations of the county committee with respect to the unification of school districts shall be "Unification of school districts—Yes," and "Unification of school districts—No," or words of similar import. If the county committee made a proposal for trustee areas in accordance with Section 4363 such proposal shall be considered a part of the reorganization proposition to be voted upon and the ballot shall include wording to that effect.

The words to appear on the ballots used for voting upon maximum tax rate or the issuance of bonds to equalize a division of property shall be in accordance with Section 4365.

4417. Upon the completion of the canvass of the election returns and the absentee ballots the county superintendent of schools shall tabulate such returns and the absentee ballots and notify the board of supervisors of the number of votes cast for, and the number of votes cast against, the unification of school districts in each elementary school district or unified school district and also the total number of votes cast for, and the total number of votes cast against, the unification of school districts.

4418. When a majority of all the votes cast are cast in favor of the unification, the proposal carries.

4419. If the plans and recommendations of the county committee are rejected by the voters, the county committee shall resurvey the territory in the manner hereinbefore provided and make plans and recommendations.

When the new plans and recommendations are identical with those previously submitted, the county committee, without resubmitting the plans to the State Board of Education, or the board of governors, as the case may be, may determine that a second election shall be held thereon not later than a year from the previous election. The county superintendent of schools shall thereupon call and conduct an election as provided in this article.

When the new plans and recommendations are not identical with those previously submitted to the State Board of Education, or the board of governors, as the case may be, or when they are identical but the county committee does not make the determination referred to above in this section, the county committee shall transmit the new

plans and recommendations to the State Board of Education or the board of governors, as the case may be. If the State Board of Education or the board of governors, as the case may be, approves the new plans and recommendations, the county superintendent of schools shall thereupon call and conduct the election as provided in this article.

## PART 4. ELECTIONS

### CHAPTER 1. ELECTION OF SCHOOL DISTRICT BOARD MEMBERS

#### Article 1. Elections

5000. After the initial election of governing board members in any school district or community college district, a governing board member election shall be held biennially on the first Tuesday after the first Monday in March of each succeeding odd-numbered year to fill the offices of members whose terms expire on March 31st next succeeding the election. Except as provided in this chapter, or in Chapter 2 (commencing with Section 5200) of this part, the elections shall be held and conducted in accordance with the provisions of Chapter 3 (commencing with Section 5300) of this part.

5001. Notwithstanding the provisions of 5000, 5003, 5004 and 35105 to the contrary, when the first elected board of any newly formed unified school district was elected on the same date that the election was held for adopting the proposal for the formation of the new district, and such election was held on December 10, 1968, the majority of members receiving the highest number of votes of the first elected board shall serve until June 30 of the third succeeding odd-numbered year. The other members' terms shall expire on June 30 of the second succeeding odd-numbered year.

5002. (a) Notwithstanding the provisions of Section 5000, whenever, in a district which has been wholly absorbed into one or more other districts and continues in existence as a district pursuant to Section 4066 until the reorganization in which it has been included is effective for all purposes and a governing board member election is otherwise required to be held prior to such effective date of the reorganization, no such election shall be held. Instead, the county superintendent of schools shall appoint successors to the members whose terms expire on or before March 31st following the date upon which the election would otherwise have been held. Such appointees shall hold office until the reorganization becomes effective for all purposes.

(b) The provisions of subdivision (a) shall apply to any school district governed by a city board of education whenever such school district has been included with other school district territory within a unification effected pursuant to Chapter 2 (commencing with Section 4200) of Part 3 of this division, where:

(1) The charter of the city involved requires an election of city

school district governing board members to be held prior to the date the new unified district becomes effective for all purposes; and

(2) The governing board of the new unified school district is organized to be subject to the provisions of this code rather than the provisions of the city charter.

5003. Notwithstanding the provisions of Sections 35105 and 5000, in the case of a unified school district formed in an even-numbered year, where in connection with the formation of which the first governing board was elected in such even-numbered year, all of the members of such first elected governing board shall serve until March 31st of the second succeeding odd-numbered year. Their successors shall be elected at an election conducted on the first Tuesday after the first Monday in March of such second succeeding odd-numbered year. The majority of such successors receiving the highest number of votes shall serve until March 31st of the second odd-numbered year thereafter succeeding. The other members' terms shall expire on March 31st of the first odd-numbered year thereafter succeeding.

5004. Notwithstanding the provisions of Sections 35105 and 5000 to the contrary, when the first elected board of any newly formed district is elected on the same date that the election is held for adopting the proposal for the formation of the new district and when the terms of several members of the first governing board would expire prior to the date on which the district becomes effective for all purposes, no election shall be held in March of that odd-numbered year, but the several members whose terms expire shall serve until March 31st of the next succeeding even-numbered year. A governing board election shall be held, on the first Tuesday after the first Monday in March of that even-numbered year to fill the offices of such members whose terms expire on March 31st next succeeding the election. The terms of office of the members so elected shall expire on March 31st of the second succeeding odd-numbered year. Their successors shall be elected pursuant to Section 5000.

5005. An annual election for members of the board of education shall be held in each unified district which is coterminous with or includes in its boundaries all or any portion of a chartered city or city and county the charter of which provides for a board of education, of five members with five-year terms, with the term of one member expiring each year. The election shall be held annually on the first Tuesday after the first Monday in March. The election shall be called, held and conducted by the county superintendent of schools in substantially the same manner as prescribed by Section 5000.

5006. When an elementary, unified, high school, community college district or community college district trustee area, includes within its boundaries the same territory, or territory that is in part the same, as a city whose charter requires a regular city election to be held in each odd-numbered year, the consolidated governing board member elections of the elementary, unified, high school, community college district or community college district trustee

area may be held on a Tuesday in the odd-numbered year and may be further consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the elementary, unified, high school or community college district upon the written request of the governing board of the elementary, unified, high school or community college district, with the written consent of the legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member elections are affected. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

When a high school district, community college district, or community college trustee area election is consolidated with that of a city pursuant to this section, or when a high school district, community college district, or community college trustee area is governed by the charter of a city providing for elections on dates other than those specified in this code, and, in either case, such high school district, community college district, or community college trustee area also has within its boundaries component districts whose elections would otherwise be held on the date specified in this code, then the elections in the component districts may be consolidated with the election in the high school district, community college district, or community college trustee area. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the component districts upon the written request of the governing boards thereof and with the written consent of the governing boards of the districts whose governing board member elections are to be consolidated with those of the component districts.

5007. When an elementary, unified, high school, community college district includes within its boundaries the same territory, or territory that is in part the same, as a city which holds a city election on the first Tuesday after the first Monday in March in each even-numbered year, the consolidated governing board member elections of the elementary, unified, high school, or community college district, may, at the discretion of the county superintendent of schools, be held on the first Tuesday after the first Monday in March in the even-numbered year and may be further consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the elementary, unified, high school, or community college district upon the written request of the governing board of the elementary, unified, high school, or community college district, with the written consent of the legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member

elections are affected. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of such incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he shall hold office until a successor qualifies therefor, but in no event shall the term of an incumbent be extended to exceed four years.

5008. (a) Notwithstanding any other provision of law, upon the recommendation of the county superintendent of schools and with the approval of the county board of supervisors, the election of governing board members of school districts whose boundaries are coterminous with the boundaries of the county, shall be consolidated with the November general elections held in the county pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

In such case, the terms of members of the governing board elected in the general election pursuant to this section shall begin at noon on the first Monday after the first day in January following such general election and shall end at noon on the first Monday after the first day in January four years thereafter.

In such case, the terms of members of the governing board expiring on March 31 of any odd-numbered year next succeeding any general election, shall expire at noon on the first Monday after the first day in January following such general election.

(b) When the term of an incumbent expires at midnight March 31 of an odd-numbered year and no successor has been elected because of the provisions of subdivision (a) of this section, the members of the board whose terms have not expired shall appoint a successor to serve until a successor is elected and qualified pursuant to subdivision (a) of this section.

5009. The governing board of any school district or community college district having trustee areas and which elects more than one member from any of such trustee areas may, by resolution, provide for the staggering of terms of members elected from any of such multiple-member trustee areas.

The resolution shall provide that at the initial election after adoption of the resolution, one or more members elected from a trustee area will be elected for two-year terms and that one or more members elected from such trustee area will be elected for four-year terms, and that thereafter all members elected from such trustee area will be elected for four-year terms. Immediately after the initial election, the newly elected members from such trustee area shall draw lots to determine which of the members shall serve a two-year term and which of the members shall serve a four-year term.

5010. When a community college district or community college

district trustee area includes within its boundaries the same territory, or territory that is in part the same, as a chartered city which holds a city election on a date other than one of the two regular election dates established by Section 2504 of the Elections Code for the conduct of city elections in odd-numbered years, the governing board member elections of the community college district or community college district trustee area may be consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the community college district upon the written request of the governing board of the community college district, with the written consent of the legislative body of the city. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of such incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he shall hold office until a successor qualifies therefor, but in no event shall the term of an incumbent be extended to exceed four years.

5011. The county clerk, or the county registrar of voters if such office has been established, having jurisdiction over a governing board member election shall cause a notice to file declarations of candidacy and nominations of candidates to be published in a newspaper of general circulation published within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. Such notice shall be substantially in the form provided in subdivision (c) of Section 5032.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient.

The first publication shall be made not more than 110 days, and the last publication shall be made not less than 70 days, prior to the date set for the election.

Proof of publication may be by affidavit.

5012. In any school district or community college district governing board election the name of any registered voter shall be placed on the ballot if there is filed with the county clerk having jurisdiction not more than 89 days nor less than 59 days prior to the election:

(a) A declaration of candidacy substantially in the form set forth in subdivision (a) of Section 5032, containing the appropriate

information in the blank spaces and signed by the registered voter whose name is thereby to be placed on the ballot; or

(b) Nomination by sponsors, substantially in the form set forth in subdivision (b) of Section 5032, containing the appropriate information in the blank spaces and signed by at least three but not more than 10 persons each of whom is a registered voter and a parent of a pupil enrolled in a public school in the district.

No candidate whose declaration of candidacy or nomination by sponsors has been filed for any school district or community college district governing board election or county board of education election may withdraw as a candidate after the 59th day prior to the election.

Notwithstanding any other provision of law, no person shall file nomination papers for more than one district office, including a county board of education office, at the same election.

5013. The form of the ballot for governing board member elections shall state the date of the election, naming the district and the county or counties in which the district is located, and shall state clearly the number of offices to be filled and the number of candidates for whom the voter is entitled to vote. The names of the candidates shall be listed, one name to a line, with a square opposite each name in which the voter may cast his vote for the candidate.

If the governing board member election is consolidated with any other election, the provisions of Article 3 (commencing with Section 5340) of Chapter 3 of this part shall apply to the form of ballot to be used.

5014. Any election held for the purpose of electing governing board members of any school district, or community college district, including additional governing board members as provided by Section 5018 shall be held and conducted in accordance with the uniform procedures set forth in Chapter 3 (commencing with Section 5300) of this part.

5015. When one member of the governing board is to be elected, the candidate receiving the highest number of votes shall be elected. When two or more members are to be elected, the two or more candidates receiving the highest number of votes shall be elected. Each voter may vote for as many candidates as there are members to be elected. The ballot shall contain instructions stating the maximum number of candidates for whom each voter may vote.

5016. If a tie vote makes it impossible to determine either which of two or more candidates has been elected to the governing board or the term of office of a governing board member, the county superintendent of schools having jurisdiction shall so certify to the governing board. The governing board shall forthwith notify the candidates who have received the tie votes to appear before it either personally or by a representative at a time and place designated by the governing board. The governing board shall at that time and place determine the winner or winners by lot.

5017. Each person elected at a regular biennial governing board

member election shall hold office for a term of four years from April 1st next succeeding his election. Any member of the governing board of any school district or community college district whose term has expired shall continue to discharge the duties of his office until his successor has qualified. The term of the successor shall begin upon the expiration of the term of his predecessor.

5018. Whenever, in any elementary school district having a governing board of three members, the average daily attendance during the preceding fiscal year became 300 or more, the governing board of the district shall do either of the following:

(a) By its own action determine that the number of members of the governing board shall be increased to five, in which case two additional members shall be elected at the next regular governing board member election.

(b) Request the county superintendent of schools having jurisdiction to submit the question of whether the number of members of the governing board shall be increased to five to the voters of the elementary school district at the next regular governing board member election. At the same election two additional members shall be elected to take office if the number of governing board members is increased.

Candidates for the two additional offices or their sponsors shall state in the declarations of candidacy or nominations filed for the election that the candidates are candidates for the two additional offices separately from the other offices to be filled in the election and shall clearly indicate to the voters that they may vote for two of the candidates to take office if the voters approve the proposed increase in the number of board members.

If the voters at such election do not approve such an increase in membership of the governing board, the same question may be submitted to the voters at subsequent governing board member elections so long as the district continues to have an average daily attendance of 300 or more. Requests to the county superintendent to submit the question to the voters of a district shall be filed with him by the governing board of the district no later than 100 days prior to the election.

If, pursuant to either subdivision (a) or subdivision (b) of this section, two additional governing board members are authorized and elected, the one receiving the higher number of votes shall hold office for a term of four years from April 1st succeeding the election, and the other one shall hold office for a term of two years from April 1st succeeding the election. Thereafter the governing board shall be composed of five members elected in the same manner and for the same term as governing boards having five members.

5019. Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district the county committee on school district organization shall have the power to establish trustee areas, rearrange the boundaries of trustee areas, and increase to

seven or decrease to five the number of members of the governing board, consistent with the provisions of Sections 5223, 5030, 35011, and 35012.

Any such proposal may be initiated by the county committee or made to the county committee by a petition signed by at least 2 percent or 50, whichever is the lesser, of the qualified electors residing in the district, or by resolution of the governing board of the district.

When any such proposal is made the county committee shall call and conduct a hearing in the district on the matter. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal.

5020. The resolution of the county committee approving a proposal shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board. For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:

“For the establishment (or rearrangement, or abolition) of trustee areas in \_\_\_\_\_ (insert name) School District—Yes” and “For the establishment (or rearrangement, or abolition) of trustee areas in \_\_\_\_\_ (insert name) School District—No.”

“For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven—Yes” and “For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven—No.”

“For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five—Yes” and “For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five—No.”

If more than one proposal appears on the ballot, all must carry in order for any to become effective.

5021. (a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved by a majority of the electors voting at the election, any affected incumbent board member shall serve out his term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established at such election which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the electors voting at the election, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the electors voting at the election, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

5022. If the number of members of the governing board is increased from five to seven, the two additional members of the board of trustees shall be appointed by the governing board of the district, with the term of one of such appointees being designated to expire on March 31st of the next succeeding odd-numbered year and the term of the other such appointee being designated to expire on March 31st of the second succeeding odd-numbered year.

5023. (a) Whenever an elementary, high school or unified school district or a portion of any such district is annexed to another school district in which trustee areas have been established the county committee on school district organization of the county having jurisdiction over the annexing district shall study and make recommendations with respect to trustee areas of the annexing district as enlarged. Procedures contained in Section 5019 shall be used for purposes of this section.

(b) Recommendations adopted under provisions of subdivision (a), if approved by the electors, shall become effective on the same date that the annexing district as enlarged becomes effective for all purposes.

5024. The county committee may provide that an election to elect trustees, pursuant to its recommendations under Section 5023, shall be held at the same time as is held the election to effect a change in trustee areas.

5025. In the event an election is called pursuant to Section 5020, the county superintendent of schools having jurisdiction shall, as to each trustee area having more than its allotted number of representatives in the membership of the governing board for the next succeeding school year, determine by lot which of said representatives shall relinquish their offices either immediately upon the election and qualification of the governing board members who are elected as provided in Section 5024 or on the first day of April next succeeding the election establishing trustee areas in the district, whichever is the later.

5026. Members elected to fill vacancies created pursuant to Section 5025 shall serve out the unexpired term of the office that was terminated.

The county committee shall designate by lot for each newly formed trustee area the expiring term of office for which a member shall be elected.

5027. Whenever the boundaries of a county high school district are coterminous with the boundaries of a county, the board shall consist of one member from each supervisory district in the county elected at large from the district.

5028. In every community college district which was divided into five wards on or before September 7, 1955, one member of the board

shall be elected from each ward by the registered voters of the ward. On or before January 1st of a fiscal year the governing board of the district may rearrange the boundaries of the wards to provide for representation in accordance with population and geographic factors or may abolish the wards.

5029. Notwithstanding any provision of Section 5028, when a community college trustee ward boundary line falls upon an election precinct boundary line, and such election precinct boundary line is changed pursuant to Chapter 1 (commencing with Section 1500) of Division 2 of the Elections Code, the governing board of the district shall, at least 90 days prior to any trustee election, change such ward boundary line to conform to precinct boundary lines, where possible.

5030. Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization may, pursuant to Section 5019 at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That the member or members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he represents.

The recommendation shall provide that any affected incumbent member shall serve out his term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever the trustee areas are established or rearranged in a district, provision shall be made for one of the alternative methods of electing governing board members.

In counties with a population of less than 25,000, the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district or community college district other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

5031. Whenever a school district or community college district is divided for governing board membership purposes into wards, supervisorial districts, or trustee areas, the county superintendent of schools shall prepare and keep in his office a map showing the boundaries of such subdivisions of all districts under his jurisdiction.

He shall also prepare and keep in his office a record of all actions taken by the county committee on district organization in connection with trustee area boundaries.

5032. The forms for declaration of candidacy, nomination of

candidate by sponsors, and notice to declare candidacy for governing board election prescribed in this article are as provided in this section.

(a) The declaration of candidacy shall be in substantially the following form:

"I, \_\_\_\_\_, do hereby declare myself as a candidate for election to the governing board of \_\_\_\_\_ district, of the County of \_\_\_\_\_; I am a registered voter; if elected I will qualify and serve to the best of my ability; and I request my name be placed on the official ballots of the district, for the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Residence address: \_\_\_\_\_"

In an election held under Section 5018 to elect additional governing board members all candidates for member of the governing board shall also indicate on their declaration of candidacy whether they are candidates for the existing office or for the new offices.

(b) The declaration of sponsors proposing a candidate for election to the governing board shall be in substantially the following form:

**DECLARATION OF CANDIDACY BY SPONSORS**

"I, the undersigned, am a registered voter of the \_\_\_\_\_ District. I hereby propose and sponsor \_\_\_\_\_, who resides at \_\_\_\_\_ (giving street address and name of city or town of residence, if any), \_\_\_\_\_ District, County of \_\_\_\_\_, State of California, and who is a registered voter in the district, as a candidate for election to the governing board of the \_\_\_\_\_ District, to be voted for at the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, and I hereby assert as follows:

My knowledge of \_\_\_\_\_ is sufficient to warrant my urging his election to the governing board, and in my opinion he is mentally, morally, and physically fit for the office and should be elected to fill it.

My residence and occupation are correctly set forth after my signature hereto.

Name	Residence	Occupation
_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby accept the nomination as above proposed. If elected I will qualify and serve to the best of my ability.

Signature of proposed candidate"

In an election held under Section 5018 to elect additional governing board members, the declaration shall contain a statement whether the proposed candidate is a candidate for the existing office or for the new offices.

(c) Notices to declare candidacy for governing board elections shall be in substantially the following form:

**“NOTICE TO DECLARE CANDIDACY FOR GOVERNING BOARD  
MEMBER ELECTION**

“Notice is hereby given to all qualified persons that an election will be held in the \_\_\_\_\_ District, County of \_\_\_\_\_, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the purpose of electing \_\_\_\_\_ members to the governing board of the school district.

“Forms for declaring candidacy and for the nomination of candidates for the election are available from the office of the County Clerk or County Registrar of Voters at \_\_\_\_\_ (giving address at which forms may be obtained), California.

“Declarations of candidacy and nominations by sponsors must be filed with the County Clerk or County Registrar of Voters at the above address not later than the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.”

5033. No member of the governing board of any district included wholly or partially included in a unified school district formed under the provisions of Chapter 2 (commencing with Section 4200) of Part 3 of this division shall be a member of the governing board of the unified school district unless elected thereto.

**Article 2. Recall**

5050. Except in the case of a unified school district which includes a city or city and county, the charter of which provides for the recall of members of the governing board, any elected or appointed member of any elective school district or community college district governing board may be recalled pursuant to this article.

5051. A petition demanding the recall of any governing board member shall be filed for verification of signatures with the county clerk. If more than one governing board member is sought to be recalled, separate petitions shall be filed for each member sought to be recalled.

Before any signatures are obtained to a recall petition, a copy of the text of the petition and the name and address of at least one, but not more than five, proponents shall be filed with the county clerk of the county designated on the paper, and the recall proceedings shall be deemed to be pending from the date of such filing.

5052. No signature may be affixed to the petition until the proponents have served, filed and published a notice of intention to circulate a recall petition, containing the name of the officer sought to be recalled and the title of his office, a statement in not more than 500 words of the grounds on which the recall is sought, and the name and address of at least one, but not more than five, proponents. The notice of intention shall be served, personally or by certified mail, on the officer sought to be recalled, and a copy thereof with a certificate

of the time and manner of service shall be filed with the county clerk.

5053. Any voter who has signed a petition demanding the recall of any district governing board member shall have his signature withdrawn from the petition upon filing a written request therefore with the appropriate county clerk designated on the paper prior to the day the recall petition is filed.

5054. No recall petition shall be circulated or filed for verification of signatures against any governing board member until he has held his office for at least six months or during the six-month period immediately prior to the time at which the regular election would be held for his office.

5055. The recall petition shall not be circulated by any person other than a registered voter of the district.

5056. Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the county clerk an answer in not more than 500 words to the statement of the proponents and, if an answer is filed, shall serve a copy thereof, personally or by certified mail, on one of the proponents named in the notice of intention. The statement and answer are intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect the validity of the election or proceedings.

Before any signature may be affixed to a recall petition, the petition shall bear a copy of the notice of intention, statement and answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.

5057. The recall petition shall be signed by registered voters equal in number to at least 20 percent of the registered voters of the district as of the time of filing the petition for verification of signatures.

5058. The signatures to the recall petition need not all be appended to one paper. If the district is situated in more than one county, each paper of the recall petition shall designate one of the counties and, of the signatures appended to such paper, only the signatures of the voters of the county designated shall be valid. Each signer shall add to his signature his place of residence, giving street and number. If no street or number exists, then a designation of the place of residence shall be given which will enable the location to be readily ascertained.

The date on which each signature was placed on the petition shall be indicated thereon either by the signer or by the person circulating the petition.

5059. Each separate paper of each recall petition shall have attached to it an affidavit. The affidavit shall state that the affiant is a registered voter of the district; that the affiant circulated that particular paper and saw each signer write his signature and residence thereon; and that according to the best information and belief of the affiant:

(a) Each is the genuine signature of the person whose name it

purports to be.

(b) Each signer is a registered voter of the district.

(c) Each signature was obtained on the date indicated on the petition.

5060. No petition shall be valid for the purpose for which it was circulated unless it shall be filed for verification of signatures within six months after the date on which a copy of the text of the petition was filed.

5061. The signatures to the recall petition shall be verified as follows:

(a) If the school or community college district is wholly in one county, the county clerk shall examine the signatures and from the records of registration ascertain whether or not the petition is signed by the requisite number of registered voters and shall attach to it his certificate showing the results of his examination.

(b) If the district is situated in more than one county, each county clerk shall examine the signatures and from the records of registration ascertain the number of signatures of registered voters in the portion of the district lying in his county and shall attach to the papers his certificate showing the results of his examination and also showing the total number of registered voters in the portion of the district lying in his county.

5062. If the number of signatures is not sufficient, a supplemental petition, in form a duplicate of the original petition, but bearing additional signatures, may be filed with the appropriate county clerk within 10 days from the date on which the county clerk certified the results of his examination. The county clerk shall examine and certify the supplemental petition. If the signatures to the petition are still insufficient, no action shall be taken thereon. The petition shall remain on file as a public record, and the failure to secure sufficient signatures shall not prejudice the filing later of an entirely new petition to the same effect.

5063. (a) If the county clerk finds the petition, together with supplementary petitions, if any, sufficient he shall at once notify the governing board who shall call a special election to be held in the district within not less than 74 nor more than 89 days after the date of the call, to determine whether the voters will recall the governing board member. If a regular election for the election of members of the governing board of the district is to occur not less than 74 nor more than 89 days from the date of the call for the special election, the governing board may, in its discretion, order the holding of the special election at the time the regular election is held.

(b) If the governing board fails to call the special election, as prescribed in subdivision (a) of this section within 30 days after receipt of the notification from the county clerk, the county clerk shall set the date for holding the special election within the time periods prescribed in this section applicable to the governing board.

5064. The county superintendent of schools shall call the recall election by posting election notices in three public places in the

district at least 35 days before the election, and by publishing a notice of the election in the district pursuant to Section 6063 of the Government Code. If there is no newspaper of general circulation published in the district, notice need not be published.

5065. Except as provided in this article, the recall election shall be held and conducted by the county clerk in substantially the same manner as elections held under Article 1 (commencing with Section 5000) of this chapter and under Chapter 3 (commencing with Section 5300) of this part.

5066. Recall elections of two or more governing board members may be consolidated.

5067. Any registered voter of the district, except the governing board member whose recall is sought, may become a candidate for election at a recall election in the manner provided in Article 1 of this chapter. The nomination by sponsors or the declaration of candidacy, shall, in addition to the requirements of Article 1, state that the proposed candidate is a candidate in the recall election to succeed the incumbent (naming him) if he is recalled.

5068. If a vacancy occurs in the office of the member sought to be recalled after a recall petition is filed for verification of signatures, the election shall nevertheless proceed as provided in this article.

5069. The county clerk shall mail to each registered voter within the district a sample ballot on which there shall be printed in not more than 200 words the statement of the grounds on which the recall is sought set forth in the recall petition. Upon the same ballot there shall also be printed, in not more than 200 words, any statement submitted by the member sought to be recalled justifying his course in office.

5070. There shall be printed on the recall ballot, as to every member whose recall is sought, the following question: "Shall (name of person against whom the recall petition has been filed) be recalled from the office of (title of the office)?" following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping or writing a cross (+), his vote for or against the recall.

5071. On the recall ballots, under each question, there shall be printed the names of the candidates to succeed the incumbent if he is recalled. Following each list of candidates, the ballot shall provide one blank line with a blank square following, to allow the voter to write in a name not printed on the ballot. When the recall election is held on the third Tuesday in April of an odd-numbered year, the candidates for the office to succeed the incumbent if he is recalled shall be listed separately from the candidates to succeed governing board members whose recall is not sought.

5072. On the recall ballots there shall be printed the same statements which were printed on the sample ballots.

5073. No vote cast in the recall election shall be counted for any candidate for the office unless the voter also voted for or against the recall of the person sought to be recalled from that office.

5074. If a majority or exactly half of those voting on the question of the recall of any incumbent from office vote "No," the incumbent shall continue in office. If a majority vote "Yes," the incumbent shall be deemed recalled from office, upon the qualification of his successor.

5075. The inspector of the election shall deliver the returns to the county clerk. At the time and place fixed in the notice of the election, the county clerk shall publicly canvass the returns and declare the results. If a majority of the votes cast favor the recall of the member, the county clerk shall declare the candidate who has received the highest number of votes for the office elected for the remainder of the term and shall issue a certificate of election to him. If the elected candidate fails to qualify within 10 days after receiving the certificate of election, the office shall become vacant and shall be filled as provided in Article 3 (commencing with Section 5090) of this chapter.

5076. Governing board members may be recalled in the manner provided in this article, except that where the governing board member, whose recall is being sought, is elected from a ward pursuant to Section 72020, the required number of signatures on the recall petition set forth in Section 5057 shall be obtained from only the electors in the ward from which he was elected. Only those electors residing within the ward shall be eligible to vote in the recall election.

### Article 3. Vacancies

5090. Vacancies on school district governing boards or community college district boards are caused by any of the events specified in Section 1770 of the Government Code, or by a failure to elect. A vacancy resulting from resignation occurs when the written resignation is filed with the county superintendent of schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become effective on that date. A written resignation, whether specifying a deferred effective date or otherwise, shall, upon being filed with the county superintendent of schools be irrevocable.

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either call an election or make a provisional appointment to fill the vacancy.

(b) When an election is called, it shall be held on the next established election date provided pursuant to Section 2504 of the Elections Code not less than 74 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 30-day period,

the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the appropriate percentage of registered voters of the district who voted in the last regular election for governing board members, as follows:

(1) In districts in which less than 75,000 voters voted 5 percent of the number of such voters.

(2) In districts in which 75,000 or more, but less than 200,000, voters voted 3,750 plus 2½ percent of the number, over 75,000, of such voters.

(3) In districts in which 200,000 or more voted 6,875 plus 1 percent of the number, over 200,000, of such voters.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the appointee during the 30-day period following his appointment and within which a petition calling for a special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) No person appointed as a successor to serve during the remainder of or a portion of a term in which a vacancy occurs shall be designated as an incumbent, a member of the governing board, a school board member, or other designation indicating incumbency, for purposes of the next general election of governing board members.

(g) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

(h) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

5092. Whenever a provisional appointment is made to the governing board of a school district pursuant to Section 5091, the board shall, within 10 days of the provisional appointment of a person to fill a vacancy which occurs or will occur, post notices of both the

actual vacancy or the filing of a deferred resignation and also the provisional appointment in three public places in the district and shall publish a notice pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published in the district, notice need not be published.

The notice shall state the fact of the vacancy or resignation and the date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation. The notice shall also contain the full name of the provisional appointee to the board and the date of his appointment, and a statement that unless a petition calling for a special election, containing a sufficient number of signatures, is filed in the office of county superintendent of schools within 30 days of the date of the provisional appointment, it shall become an effective appointment.

5093. (a) There shall be no special election or appointment to fill a vacancy on a governing board if the vacancy occurs within four months of the end of the term of that position and the incumbent is not reelected to fill the position.

(b) Section 5091 shall not apply to a vacancy on a governing board if the vacancy occurs during the period between four months and 74 days prior to a regularly scheduled governing board election and the position is not scheduled to be filled at such election. In such a case, the position shall be filled at a special election for that position to be consolidated with the regular election. A person elected to fill a position under this subdivision shall take office at the next regularly scheduled meeting of the governing board following the election and shall serve only until the end of the term of the position which he was elected to fill.

(c) If a special election pursuant to Section 5091 could be consolidated with the next regular election for governing board members, and the vacant position is scheduled to be filled at such regular election, there shall be no special election.

5094. If for any reason vacancies should occur in a majority of the offices on any school district or community college district governing board, the president of the county board of education having jurisdiction may appoint members of the county board of education to the district governing board until new members of the governing board are elected or appointed.

5095. Whenever any of the offices on any school district governing board or community college district governing board is vacant, the remaining governing board member or members, if any, and any governing board member or members elected or appointed to fill the vacancies, who have qualified, shall have all the powers and perform all the duties of the governing board.

## CHAPTER 2. BOARDS OF EDUCATION

## Article 1. Districts Covered

5200. Any unified school district which is coterminous with or includes within its boundaries a chartered city or city and county shall be governed by the board of education provided for in the charter of the city or city and county. Sections 5000, 5017, 5050, 5090, 5091, 35013, 35101, and 35105 shall not apply to such unified school districts, except as follows:

(a) As provided in the charter of the city or city and county.

(b) If the charter of the city or city and county fails to provide for a board of education or for any or all of the matters specified in Sections 5000, 5017, 5050, 5090, 5091, 5222, 35013, 35101, and 35105 shall apply as to the matter not provided for in the charter.

5201. A school district, or community college district a portion of which is embraced within the limits of any city governed by a charter proposed and adopted as provided by Section 5 of Article XI of the California Constitution, may be subject to, controlled, and governed by the provisions of the charter relating to and providing for the management of public schools in the manner hereinafter in this article provided, upon approval of a majority of the electors of the districts voting at a regular biennial school district governing board member election.

The governing board of any such district may, in the resolution specifying the order of any such regular governing board member election, require that the question of whether the district shall be governed by the provisions of the charter be submitted to the voters of the district.

If the governing board so requires, the ballots used at the election shall contain the words "Shall the (name of district) be governed by the charter of the City of \_\_\_\_\_?" and the words "Yes" and "No" so placed that the voters may clearly indicate their choice in this connection.

If it appears from the returns that a majority of the votes cast on the proposition is in favor of the proposal, then the county superintendent of schools having jurisdiction shall certify the result to the board of education provided for in the charter of the city. From and after the date of the certificate the district shall be governed by the provisions of the charter relating to the establishment, management, and control of the public schools, and all of the qualified electors residing in the district, whether residing within or without the boundaries of the city, shall be entitled to vote for members of the board of education at any election held for that purpose.

5202. If any school district or community college district or portion of any such district is embraced within the corporate limits of a city having a charter, and the electors of the district have participated in and voted at any school election held subsequent to

the adoption of and under the provisions of the charter, they shall be deemed to have submitted to be governed in all matters relating to the management of public schools within the school district or high school district or community college district as fully and to all intents and purposes as though the electors of the district had by their votes elected to be governed by the provisions of the charter.

5203. If the charter of any city provides for or has within two years prior to January 1, 1955, provided for a board of education of five members of a unified school district, and said charter has been or is hereafter amended so that it fails to provide for a board of education, a new board of education composed of five members is created under this section immediately upon the effective date of such amendment; the positions thereto shall be filled by appointment of the county superintendent of schools. The terms of the members first so appointed shall expire the last day of March of an odd-numbered year next following the effective date of such charter amendment, and an election shall be held for the members of such board at the time fixed by law for the regular election of members of governing boards of school districts, and the members so elected shall assume office on the first day of April following. If the effective date of such charter amendment is such that a legal election for board members cannot be held as aforesaid prior to the first day of April of an odd-numbered year next following such charter amendment, then the county superintendent of schools shall again appoint the members of such board who shall assume office on the first day of April as aforesaid. The terms of the board members who take office on the first day of April as aforesaid and thereafter shall be as follows:

(a) If such members were elected, the three receiving the largest number of votes shall serve for four-year terms, and the remaining two members shall serve for two-year terms; and all subsequent members shall serve for four-year terms.

(b) If such members were appointed, the county superintendent of schools, upon making the appointments, shall designate three members to serve for four-year terms, and two members to serve for two-year terms.

Except as herein otherwise provided, the members of the board shall be elected at the last time fixed by law for the election of members of governing boards of school districts prior to the commencement of a new term of office. If a general municipal election is to be held within 60 days prior to the time when an election for board members would be held as aforesaid, the board of education may, by resolution filed with the governing body of such city at least 60 days prior to such municipal election, call the school district election to coincide with the municipal election and request the governing body of such city to consolidate such elections in that portion of the school district which lies within such city, and the governing body of such city shall order such elections to be consolidated and to be held as are consolidated elections under the

provisions of the Elections Code relating to consolidated elections, in which event the school district shall simultaneously with the holding of such consolidated election conduct an election in any portion of the district not included within such municipality. In the event of the holding of such consolidated election, the school district shall reimburse the city for its proportionate share of the costs of conducting such consolidated election in an amount to be agreed upon between the governing bodies of such school district and such city.

**5204.** Proceedings pursuant to Section 5203 may be conducted in conjunction with proceedings under Article 1 (commencing with Section 5000) of Chapter 1 of this part, including proceedings by the county committee on school district organization to establish trustee areas or to increase the number of members of the governing board of the school district or community college district from five to seven members, or both. In the event that the number of members of the governing board of the school district is so increased from five to seven members, the terms of office of the board members who take office at the expiration of the terms of office of the board members appointed by the county superintendent of schools shall be determined by lot. The terms of office of the majority of members of the board shall expire on June 30th of the second succeeding odd-numbered year, and the terms of the other members shall expire on June 30th of the first succeeding odd-numbered year. All subsequent members shall serve for four-year terms.

**5205.** The governing board of any elementary school district having an average daily attendance of 1,000 or more pupils and an assessed valuation of twenty million dollars (\$20,000,000) or more may, and upon petition signed by 25 percent of the heads of families resident in the district, shall order an election to determine whether or not, it shall have the rights, powers, and duties of a city board of education and whether or not the district shall for all purposes be deemed to be a district governed by a city board of education.

If the governing board of the district consists of three members, there shall be elected at the election, to take office if the proposal for change in the rights, powers, and duties of the board is approved, two additional members to the board. If the change is approved by a majority of the qualified electors voting on the proposition at the election, the board shall have the rights, powers, and duties of a city board of education, and the district shall for all purposes be deemed to be a district governed by a city board of education. Also, if the change is so approved, the two additional board members shall take office, the one receiving the highest number of votes to serve until the first day of April following the second succeeding regular election at which board members are elected, and the one receiving the next highest number of votes to serve until the first of April following the next such regular election. Thereafter, the governing board of the district shall consist of five members elected in the manner prescribed for other school districts for terms of four years

and until their successors are qualified, provided that vacancies shall be filled in the manner provided for unified school districts.

5206. Whenever a unified school district has within its boundaries a chartered city or a city with a population of more than 8,000 or whenever the average daily attendance of a unified school district is 1,500 or more, for all purposes the district shall be deemed a city school district governed by a city board of education and the governing board thereof shall be deemed a city board of education.

5207. Notwithstanding the provisions of Section 5206, whenever the average daily attendance of a unified school district, which becomes effective for all purposes on or after July 1, 1966, is 2,000 or more, for all purposes the district shall be deemed a city school district governed by a city board of education and the governing board thereof shall be deemed a city board of education.

5208. When outside territory has been annexed to a city for school purposes, the outside territory shall be deemed to be a part of the city for all matters connected with the school department of the city, for the annual levying and collecting of the property tax for the school fund of the city, and for all purposes specified in Chapter 2 (commencing with Section 15100) of Part 10 of this division.

The last assessment roll made by the county assessor shall be the only basis of taxation for the school district on the property outside the corporate limits annexed for school purposes.

## Article 2. Elections

5220. Boards of education are elected in cities under the provisions of the laws governing the respective cities, except as otherwise provided in this chapter.

5221. Whenever the charter of a city comprising in whole or in part an elementary school district, fails to provide for the manner in which, the times at which, and the terms for which the members of the board of education of such city are appointed, and for the number which shall constitute such board, the governing board of the elementary school district within which the city is located or with which the city is coterminous is the board of education of the city.

5222. Except as provided in Section 5221, whenever the charter of any city fails to provide for the manner in which, the times at which, or the terms for which the members of the city board of education shall be elected or appointed, for their qualifications, removal, or for the number which shall constitute such board, the provisions of this division shall apply to the matter not provided for.

5223. The members of any elective city board of education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the city board of education, whether sitting as a board of education, high school board, or community college board, and any qualified elector of the territory shall be eligible to be a member of such city board of education.

When outside territory has been annexed to a city for school purposes it shall be deemed a part of the city for the purpose of holding the general municipal election, and shall form one or more election precincts, as may be determined by the legislative authority of the city. The qualified electors of the annexed territory shall vote only for the board of education or the board of school trustees.

5224. In any school district or community college district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 federal census, the governing board shall be composed of seven members holding office numbers 1, 2, 3, 4, 5, 6, and 7, and shall be elected at large at the same time and in the same manner as the members of the city council of said city, and shall serve for a term of four years. The four members of such board whose terms of office expire July 1, 1947, shall be considered as holding office numbers 1, 3, 5, and 7 (such members within 15 days after the effective date of Chapter 725 of the Statutes of 1945 to determine by lot at a regular board meeting the number of the office each holds), and the remaining offices shall be known as office numbers 2, 4, and 6 (to be allocated by lot in the same manner as hereinbefore provided for office numbers 1, 3, 5, and 7). All such members' terms shall commence on the first day of April next succeeding their election.

5225. Notwithstanding the provisions of Section 5033, when a unified school district is formed pursuant to Chapter 2 (commencing with Section 4200) of Part 3 of this division which includes a city school district having a city board of education as provided under Section 5224, the unified school district shall be governed by said city board of education and the governing board members thereof shall continue in office for the remainder of their terms as elected pursuant to the provisions of Section 5224.

5226. Elections of members of city boards of education, primary, general, or recall, may be consolidated with municipal elections, primary, general, or special, in accordance with the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code. In event of consolidation, the cost and expense of the election shall be apportioned between the city and districts, elementary, high school, or community college, as provided in Section 5227.

5227. In those cases in which the boundaries of the school district, high school district, or community college district, governed by a city board of education, are not coterminous with the boundaries of the city, and where elections, either primary, general, or recall, of members of the board of education are by the provisions of the laws governing the cities held at times other than on the day of municipal elections, general or special, the cost and expense of the district elections shall be a legal charge against the funds of the district or districts governed by the board of education. The city shall be reimbursed by the district or districts for its actual cost and expense incurred in the conduct of the election or elections. The cost and

expense of conducting the election in territory common to two or more districts shall be borne by the districts in equal shares. In territory within a single district the cost shall be borne by the district.

In those cases in which the school district, high school district, or community college district is governed by a city board of education, and elections, either primary, general, or recall, of members of the board of education are by the provisions of the laws governing the cities held on the same day as municipal elections, general or special, a proportionate part of the actual cost and expense of the election shall be a legal charge against the school districts governed by the board of education. The city shall be reimbursed for the proportionate cost and expense incurred in the conduct of the election. The cost and expense of the elections within the boundaries of the city shall be apportioned between the city and the districts in the ratio that the total number of offices to be filled and propositions to be voted upon by the electors of the city and the school district or districts, respectively, bears to the total number of offices to be filled and propositions submitted. The cost and expense of the election in territory outside of the municipal boundaries shall be borne by the districts affected. As between the districts, costs and expense shall be apportioned as follows: In territory common to two or more districts the cost of conducting the election shall be borne in equal shares, and in territory within a single district the cost shall be borne by the district.

5228. An election for members of the governing board of a community college district which has been divided into wards as provided in Section 5227 may be held, at the discretion of the governing board, on the same date and in the same manner as the city election for any chartered city located within the boundaries of the community college district. Such election when held shall be conducted by the chartered city on behalf of the community college district with the expenses of the election within the boundaries of the city apportioned between the city and the school districts in the manner prescribed by Section 5227.

Where a city charter does not specify a date for such elections, city boards of education may, by unanimous vote, determine that governing board member elections for that district shall be held on the date prescribed for the regular biennial school district governing board member elections, in which event the provisions of Chapter 3 (commencing with Section 5300) of this part relating to the consolidation of governing board member elections shall apply.

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

election of governing board members following such date of formation for all purposes.

The term of office of such three members shall be determined by lot. The term of one member shall expire on March 31st of the second succeeding odd-numbered year following his election; and the terms of two members shall expire on March 31st of the second succeeding odd-numbered year following their election. The persons elected to succeed such three members shall hold office for four years.

In a unified school district formed pursuant to Chapter 2 (commencing with Section 4200) of Part 3 of this division which includes a chartered city, the governing board of the district shall be the board of education of such city or city and county; provided, that all qualified electors residing within the unified school district are eligible to vote at all elections held for the election of members of the city board of education and any elector residing in the district, or in a trustee area if the district is divided into trustee areas, is eligible to serve as a member of said board.

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

5230. In the event a newly unified district includes a chartered city, the first governing board of the district shall be selected pursuant to Section 35101 or, in the event the charter of such city expressly provides for the calling and setting of the election of the first governing board of a newly unified school district, the charter shall apply.

5231. Notwithstanding any other provision of law, when elections for school district governing board members in existing or newly formed school districts are conducted in conjunction with the municipal election of a chartered city on other than the first Tuesday after the first Monday in March, newly elected members, unless the charter provides otherwise, shall take office 37 days after the day of election; provided, however, if the charter of a city provides for a municipal nominating or primary election and a general municipal election, the newly elected members shall take office 37 days after the date fixed by the charter for the general municipal election. The terms of office of outgoing members shall expire on the day before such newly elected members take office.

(Amended by Stats. 1976, Ch. 1011.)

## [ORIGINAL SECTION]

5231. Notwithstanding any other provision of law, when elections for school district governing board members in existing or newly formed school districts are conducted in conjunction with the municipal election of a chartered city on other than the first Tuesday after the first Monday in March, newly elected members shall take office 30 days after the official verification of the results of such election. The terms of office of outgoing members shall expire on the day before such newly elected members take office.

## CHAPTER 3. CONDUCT OF ELECTIONS

## Article 1. General Provisions

5300. School district elections and community college district elections shall be governed by the Elections Code, except as otherwise provided in this code.

5301. The provisions of this chapter shall apply to all district elections, except as otherwise provided by law, or as otherwise provided in the charter of any city or city and county in the matters concerning which the provisions of such charters are afforded controlling force and effect by the Constitution or laws of the state.

5302. The duties of the county superintendent of schools having jurisdiction of a school district election or community college district election shall be:

(a) To call elections when ordered under the provisions of this code.

(b) To consolidate district elections.

(c) To prepare recommendations, statements, or arguments for any election in which they are required, as provided in this code.

(d) To receive petitions as authorized by this code.

5303. The county clerk or the registrar of voters, if such office has been established in the county, shall perform the duties incident to the preparation for, and holding of, all district elections.

In districts situated in two or more counties, or in elections to organize or reorganize districts in territory situated in two or more counties, the county clerks, or the registrars of voters in the counties in which any part of the district territory is situated, shall, by mutual agreement, provide for the performance of such duties.

5304. The duties of the governing board of any school district or community college district with respect to school district elections shall be:

(a) To order elections as authorized by this code.

(b) To resolve tie votes in governing board member elections.

5305. All school district elections and community college district elections shall be held on a Tuesday.

## Article 2. Order and Call of Elections

5320. The act authorized by this code of any officer, board, county committee, group of electors, or any other persons or agencies which commences an election proceeding, and any mandatory provision of

this code requiring that an election be held, is an "order of election."

5321. Whenever a valid and verified petition, authorized by this code and requesting that a board election be held in any school district or in territory contained in one or more school districts or community college district, is received by the officer or board designated by law to receive the petition, such petition shall be deemed an order for calling such election unless the officer or board is by law authorized to take some action upon the petition other than ordering the election requested in the petition. If an election is ordered, the county superintendent having jurisdiction shall prepare a resolution setting forth the specifications required in Section 5322 as preliminary procedure to the call of such election.

5322. Whenever an election is ordered, the governing board of the district or the board or officer authorized by this code to make such designations shall, concurrently with or after the order of election but not less than 80 days prior to the date set for the election, by resolution delivered to the county superintendent of schools specify the following, or such of the following as he or it may have authority to designate:

- (a) The date of the election.
- (b) The purpose of the election.

The resolution or resolutions shall be known as "specifications of the election order" and shall set forth the authority for ordering the election, the authority for the specification of the election order and the signature of the officer or the clerk of the board by law authorized to make the designations therein contained.

5323. The county superintendent having jurisdiction shall at least 120 days prior to the date of a governing board member election consolidated pursuant to Section 5340, notify the governing boards concerned of the order of consolidation of governing board elections under his jurisdiction. Such notice of consolidation shall be given in writing.

5324. At least 75 days prior to the date specified for the holding of any school election, the county superintendent of schools shall deliver to the county clerk or registrar of voters, if such office has been established in the county where the election is to be held, copies of:

- (a) The order of election.
- (b) If the election is to be consolidated, the order of consolidation.
- (c) The formal notice of election.

5325. Any school district election or community college district election ordered to be held in accordance with the provisions of this code shall be called by the county superintendent of schools having jurisdiction of the election by causing the:

- (a) Posting or publication of notices of election, and
- (b) Delivery of a copy of the formal notice of election to the county clerk or registrar of voters at least 75 days prior to the date of the election.

5326. If, immediately following the last time for filing pursuant to

Section 5012 of the Education Code, only one person has been nominated for each position of governing board member to be filled at that election or no person has been nominated for any such position, and a petition signed by 25 voters of the district indicating that a write-in campaign will be conducted has not been presented to the county superintendent by the 40th day prior to the election, an election shall not be held.

For purposes of this section it shall be deemed that there is only one candidate for each position of governing board member to be filled when there is more than one such position to be filled from a list of candidates for all such positions collectively and the number of candidates does not exceed the number of positions to be filled; to the extent that the number of such positions exceeds the number of candidates therefor, it shall be deemed that no person has been nominated.

The provisions of this section shall apply to elections for membership on the county board of education.

For purposes of this section and Sections 5327, 5328, and 5329, "nominated" or "nomination" includes becoming a candidate by a declaration of candidacy.

5327. The publication provided for in Section 5325 shall, instead of calling an election, state that no election is to be held but that the governing board shall appoint the one nominated for the position of governing board member or shall, if no person has been nominated, appoint any qualified person to the position.

5328. If pursuant to Section 5326 a district election is not held, the governing board shall, at a meeting held prior to the day fixed for the election, appoint to the position of governing board member the person nominated, or shall, if no person has been nominated, appoint any qualified person to such position. Any person thus appointed shall qualify, take office and serve as if elected at a district election.

5329. Notice that appointment pursuant to Section 5328 may be made in the event that only one or no nomination is made and no petition requesting an election is filed, shall be published in a newspaper of general circulation in the district, once, not less than 7 days and not more than 14 days prior to the final day on which nominations may be made.

### Article 3. Consolidation of Elections

5340. School district governing board or community college district governing board member elections for two or more districts of any type to be held in the same district or area on the same day shall be consolidated so that a person entitled to vote in both or all of such elections may do so at the same time and place and using the same ballot.

When a consolidated election is required by this section to be held, the basic unit for conducting the election shall be the elementary district, and the county superintendent of schools having jurisdiction

over the elementary districts affected shall order the consolidation of governing board elections at least 120 days prior to the date of the election, by notifying in writing the governing boards concerned that a consolidated election is required to be held.

5341. When a consolidated district governing board member election is required to be held there shall be as many separate lists of candidates as there are districts for which governing board members are to be elected. Each list of candidates shall be headed by the name of the district for which the persons listed are governing board member candidates. The name of each district shall be printed in capital letters, and shall be separated from the list of candidates beneath it by a line. The names of the districts with the list of candidates for governing board member of each district following each name shall be arranged in the following order, as the case may require:

(a) First, community college district if there be one; second, high school district; third, elementary school district; or

(b) First, community college district; second, unified district; or

(c) First, community college district; second, high school district.

The names of the candidates for the office of governing board member of one district shall not be separated from each other on the ballot by the names of candidates for governing board member of another district, and the list of candidates for each district shall be separated from the other lists by two double rules, one below the list of candidates and one above the name of the district which precedes the list.

Candidates for office in each district shall be listed on the ballot as follows, whether on a separate ballot for the district or on the list for the district on a consolidated ballot:

(a) The candidates shall be placed on a single list on the ballot regardless of how many members are to be elected;

(b) In an election held under Section 5018 to elect additional governing board members, the candidates for the new offices shall be listed separately from the candidates for the existing office and shall be voted for separately;

(c) When an election to recall a governing board member is held on the third Tuesday in April, the candidates for the office to succeed the incumbent if he is recalled shall be listed separately from the candidates to succeed governing board members whose recall is not sought.

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county or other political subdivision, the district election may be either completely or partially consolidated with such election or elections pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

Such consolidation shall be effected by the county superintendent

of schools having jurisdiction of the district upon receipt of both of the following:

(a) Written request for such consolidation by the governing board of the school district in which the election is to be held, which request must be submitted to the county superintendent of schools at least 80 days prior to election.

(b) Written approval of consent by the governing body of the other political subdivision or subdivisions holding an election or elections.

5343. If any school district election or community college district election is completely or partially consolidated with any other election, the notice of election need not set forth the precincts, place or places of holding the election, or the names of the officers appointed to conduct the election, but may instead state that the precincts, place or places of holding the elections and officers appointed to conduct the election shall be the same as those provided for such other election within the territory affected by the consolidation and set forth in the ordinance, order, resolution, or notice calling, providing for or giving notice of such other election, and reference shall be made to such ordinance, order, resolution, or notice by number and title or date of adoption, or by date or proposed date of publication and the name of the newspaper in which publication has been or will be made, or by any other definite description, except that no such reference need be made if the election is completely or partially consolidated with a statewide election.

5344. Within the territory affected by the order of consolidation the election precincts, polling places, voting booths and polling hours shall, in every case, be the same and there shall be only one set of election officers in each of the precincts. When the returns of elections consolidated pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code are required to be canvassed by different canvassing boards, the elections shall be conducted separately in the same manner as if they had not been consolidated, except as provided in this section.

5345. In the event of consolidation of any school district election or community college district election with any other election the provisions of law governing such other election with respect to the manner of marking ballots shall also apply to the district election consolidated therewith.

#### Article 4. Election Notice

5360. As used in this chapter "formal notice" means the notice of election which is required to be published and posted in public places, and "card notice" means the notice of election which is required to be mailed to the registered voters of the area in which the election is to be held.

5361. The formal notice of election for any school district election

or community college district election shall be prepared by the county superintendent of schools and shall contain the following:

- (a) The date of the election.
- (b) The purpose of the election.

5362. As an alternative to publication by newspaper pursuant to Section 5363, publication of formal notice may be effected pursuant to this section. Not later than 20 days prior to the date of any school district or community college district election the county superintendent of schools having jurisdiction shall cause to be posted the formal notice of the election in public view at:

- (a) Every schoolhouse in the territory, district or districts in which the election is to be held.
- (b) At three public places in the territory, district or districts.

5363. Except where the procedure prescribed by Section 5362 is utilized, and except as otherwise provided for consolidated elections, the county clerk, or the county registrar of voters if such office has been established, having jurisdiction over any school district or community college district election shall cause formal notice of such election to be published in a newspaper of general circulation published within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient.

The first publication shall be made not more than 90 days, and the last publication shall be made not less than seven days, prior to the date set for the election.

Proof of such publication may be by affidavit.

5364. In the case of any school district or community college district election called or conducted under the provisions of this code, except as hereafter provided in this section, the county clerk, or the registrar of voters if such office has been established, of the county in which the majority of the territory of the district is located, shall, at the time provided in the Elections Code for the mailing of sample ballots for a statewide primary election, mail to each registered voter residing within the district, a sample ballot and a card designating the polling place and time of the election.

As used in this section, the word "card" means a card or other notice, as determined by the officer charged with the duty of mailing the same to the voters.

5365. (a) The officer charged with the duty of providing sample ballots for any election at which absent voter ballots may be cast shall cause to be printed on the envelope containing the sample ballot in heavy-faced gothic type, not smaller than 10-point, the following:

Notice: If you find that for any reason you will be unable to vote in person on election day, promptly contact the office of the \_\_\_\_\_

(county clerk or equivalent official, address, and phone number) for information regarding your right to vote by absent voter's ballot.

(b) In counties in which an application for absent voter's ballot is provided within the sample ballot envelope, such notice shall state, instead, the following:

Notice: If you find that for any reason you will be unable to vote in person on election day, promptly complete and sign the enclosed application for absent voter's ballot and return to \_\_\_\_\_ (county clerk or equivalent official, address and phone number).

Your application may be submitted not more than \_\_\_\_\_ days before the day of election but must reach the office of the \_\_\_\_\_ (county clerk or equivalent official) not less than \_\_\_\_\_ days before the day of election.

5366. Whenever the county clerk, registrar of voters, or other officer conducting a school district or community college district election is required to notify each voter of his polling place, the notice shall specify the location of the polling place, giving street and number, if any, with sufficient particularity to identify it. It shall not be compliance with such requirement to send to the voter a list of the precincts to be used at the election, and no such list shall be sent.

#### Article 5. Precinct Election Officers

5380. Any election officer serving at any school district election or community college district election may be paid out of the funds of the district as compensation for his services as an election officer such sum as is determined by the county clerk and approved by the county board of supervisors, not to exceed the amount paid from the county treasury to officers of the preceding general election. In districts in which the polls are kept open less than 12 hours, the maximum compensation for election officers shall be the sum bearing the same relation to the amount paid to election officers of the last preceding general election as the number of hours the polls were open at the election bears to the number of hours the polls were open in the preceding general election.

#### Article 6. Voters

5390. As used in this chapter "voter" means registered voter. In any school district or community college district election, any resident of the district, who is a voter of the county and who is registered in a general election precinct wholly or partially within the district at least 30 days before the election, may vote at the election.

5391. A voter shall cast his ballot only in the district precinct in which his place of residence is located.

5392. Any voter desiring to vote at the election shall write his name and address, or if he is unable to write, shall have his name and address written for him, on a roster of voters provided for that

purpose. He shall announce his name and address to one of the election officers, who shall in an audible tone of voice repeat the name and address. If another election officer finds the name on the printed index, and it has not been canceled, he shall in like manner repeat the name and address and deliver to the voter a ballot which he shall be allowed to vote.

The election clerk having in charge the copy of the index to the register or affidavits of registration shall, in like manner, repeat the name and shall write in the ruled space opposite the name, in figures, the line number designating the position of the name of the voter on the roster.

5393. In casting his vote the voter shall stamp a cross (+) in the square space immediately following the name of the candidate or candidates of his choice, or his choice of "Yes" or "No" to any proposition printed thereon. If the voter desires to vote for a person whose name does not appear on the ballot, he shall himself write the name of the person in the space provided for that purpose on the ballot. When the voter writes the name of a person on the ballot he may, but need not, place a cross (+) after the name. After properly marking his ballot the voter shall hand it to the inspector who shall, in the presence of the voter, deposit the ballot in the ballot box.

#### Article 7. Election Procedure

5400. In any school district or community college district election, the officer or board designating the polling places for the election shall furnish, or cause to be furnished, a sufficient number of places, booths, or compartments at or in which voters may conveniently mark their ballots so that they are screened from the observation of others.

5401. Subject to the provisions of Sections 5013 and 5341 of this code, the ballot used in any school district or community college district governing board election shall be subject to the following requirements:

(a) Ballot paper or punchcards, whichever is used, shall be acquired from the Secretary of State pursuant to Section 10001 of the Elections Code.

(b) All ballots used in district governing board member elections shall have printed immediately below the perforated line along the top of the ballot, and above any instructions to voters, in capital type at least 12-point in size the words "Ballot for School or Community College District Governing Board Member Election," followed by the name of the district. If a punchcard voting system is used, only the name of the election and the date of the election shall be printed on the stub attached to the punchcard and the words "Ballot for School District or Community College Governing Board Member Election," followed by the name of the district, shall be printed upon any ballot reference page or pages upon which is also printed, the instructions to the voters, office titles, names of candidates and the

ballot titles of measures, in conformance with the provisions of Division 9, Chapter 8 of the Elections Code.

(c) It shall comply with the provisions of the Elections Code as to ballot form and details including candidates occupational designation, excepting instructions to voters thereon shall be as provided for in local elections by the Elections Code.

No candidate shall assume a designation which would mislead the voters.

#### Article 8. Cost of Elections

5420. The cost of any school district or community college district election may include, but need not be limited to:

(a) Compensation of precinct election officers.

(b) Publication of notices.

(c) The cost of printing official ballots, sample ballots, indexes, arguments, statements, official notices, and card notices.

(d) Mailing charges for card notices, arguments, recommendations, statements, and sample ballots.

(e) Forms for rosters, tally sheets, certificates, envelopes, declaration of results forms, and legal forms required for bond elections.

(f) Precinct maps.

(g) The actual cost of supplies such as flags, ballot boxes, chairs and tables, booths, ink pads and stamps, and pencils; provided, that if any such can be borrowed from any state or county office, no charge for rental shall be included in the cost of elections.

5421. The cost of any election held within a single district shall be borne by the entire district, and shall be paid out of its funds. Election costs shall be determined by the county clerk or registrar of voters and approved by the county board of supervisors.

5422. The cost of elections, including consolidated elections, held in territory common to two or more districts shall be borne by the districts concerned in equal shares and paid from district funds.

5423. The cost of consolidated governing board elections shall be paid by the county superintendent of schools having jurisdiction from the county school service fund, and the cost shall be prorated among the districts concerned to reimburse the fund.

5424. The cost of any recall election shall be borne by the district in which the recall election is held and paid from district funds.

5425. The cost of the election for the formation of a community college district shall be paid from the county general fund.

5426. The cost of any election held under the provisions of Article 8 (commencing with Section 4400) of Chapter 2 of Part 3 of this division, or Article 7 (commencing with Section 35690) of Chapter 3 of Part 21 of Division 3 of Title 2, or Article 3 (commencing with Section 74630) of Chapter 5 of Part 46 of Division 7 of Title 3, where the election is being held for the assumption of bonded indebtedness of the district to which the territory is being transferred or where the

county board of supervisors requires an election to be held in the whole district from which the territory would be transferred, shall be paid from the county general fund.

#### Article 9. Miscellaneous Provisions

5440. The provisions of Division 11 (commencing at Section 20000) of the Elections Code, relating to election contests shall apply to school district elections.

5441. The returns of any school district or community college district election received by the county clerk or registrar of voters having jurisdiction shall, after the date of the declaration and certification of the final results of the election, be disposed of as follows:

(a) The sealed envelope containing the voted ballots, including ballots rejected for improper markings, shall be kept by the county superintendent unopened and unaltered for six months. If a contest or criminal prosecution is not commenced within the six-months' period as provided in Division 11 of the Elections Code, he shall destroy the envelope, or have it destroyed, without its being opened or its contents examined. This paragraph also applies to absent ballots and identification envelopes.

(b) The envelope containing spoiled, canceled, and defaced unused ballots shall remain unopened in the custody of the county superintendent and shall be held and disposed of as is the envelope provided for in paragraph (a) of this section.

(c) The envelope containing the tally sheet, challenge sheet, challenge list, assisted voter list, and affidavits of election officers assisting voters, shall be disposed of in the same manner, but the contents of this envelope may be made available to voters for inspection at any time following commencement of the official canvass of votes.

5442. If any voter by affidavit filed with the county clerk or registrar of voters shows facts sufficient reasonably to justify the belief that the vote of any precinct has not been correctly counted to the extent that a recount would change the result of the election, he may appear on the day and at the place fixed for the county clerk or registrar of voters to canvass the returns and demand a recount of the vote of the precinct that is claimed to have been incorrectly counted.

The cost of the recount shall be deemed to be a cost of the election, and shall be paid by the district involved pursuant to Article 8 (commencing with Section 5420) of this chapter.

This section shall apply to all school district and community college district elections of any type or class, except school district governing board member elections, and shall be liberally construed.

5443. (a) The county clerk or registrar of voters shall order a recount if the provisions of this subdivision are complied with. A recount shall be ordered upon the filing with the county clerk or

registrar of voters of an affidavit by any voter and his appearance and demand pursuant to this subdivision. The affidavit shall show that the vote was within: (1) the lesser of 10 votes or 1 percent of the total votes cast in any one precinct; or (2) the lesser of 100 votes or 1 percent of the total votes cast in all precincts. The voter who files the affidavit shall appear on the day and at the place fixed for the county clerk or registrar of voters to canvass the returns and shall demand a recount. Except as provided in subdivisions (b) and (c), if the affidavit is based upon the number or percentage of votes cast in one precinct, any recount shall be confined to that precinct. If the affidavit is based upon the number or percentage of votes cast in all precincts, the recount shall be conducted in all precincts.

(b) The county clerk or registrar of voters may, in his discretion, order a recount in all precincts whenever an affidavit is filed pursuant to subdivision (a).

(c) The county clerk or registrar of voters may, in his discretion, order a recount whenever there is filed with him by any voter an affidavit showing facts sufficient to justify the belief that the result of the election could be changed by a recount.

(d) The cost of the recount shall be deemed to be a cost of the election, and shall be paid by the school district involved pursuant to Article 8 (commencing with Section 5420) of this chapter.

(e) This section shall apply only to school district governing board member elections of any type or any class.

5444. Notwithstanding any other provision of this code, the county clerk or registrar of voters conducting any school election shall not be required to provide more than one ballot to the same voter for the purpose of voting on separate propositions at the same election. However, no voter shall be presented with a ballot containing a proposition on which he is not entitled to vote by virtue of not residing within the district or area affected by the proposition.

#### Article 10. Ballot Arguments

5450. As used in this article, "school measure" means any proposition, including but not limited to, a proposal for the issuance of bonds by a school district, or community college district an increase in the maximum tax rate of a school district or community college district, or the acceptance, expenditure, and repayment of state funds by a school district or community college district to enable the district to construct buildings and other facilities, submitted to the voters of the district at any election held in the district.

5451. Whenever a school measure qualifies for a place on the ballot, the county clerk shall transmit a copy of the measure to the county counsel or to the district attorney in any county which has no county counsel.

The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the

existing law and the operation of the measure.

The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

5452. The governing board of the district or any member or members of the board authorized by the board, or any individual voter or bona fide association of citizens, or any combination of such voters and associations may file a written argument for or against any school measure. No argument shall exceed 300 words in length. No more than five signatures shall appear with any argument submitted under this section. If an argument is signed by more than five persons, the names of only the first five persons signing, determined by the order in which their signatures appear, shall be printed with the argument. The person conducting the election shall cause an argument for and an argument against the measure to be printed, and shall transmit the arguments to the voters with the card giving notice of the election.

5453. Based on the time reasonably necessary to prepare and print the arguments, the person conducting the election shall fix and determine a reasonable date prior to the election after which no arguments for or against any school measure may be submitted to him for printing and distribution to the voters. Notice of the date fixed shall be published pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the person conducting the election.

5454. If more than one argument for or more than one argument against any school measure is submitted to the person conducting the election within the time prescribed, the person conducting the election shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the arguments the person conducting the election shall give preference and priority in the order named to the arguments of the following:

- (a) The governing board of the district or member or members of the board authorized by the board.
- (b) Bona fide associations of citizens.
- (c) Individual voters.

If more than one argument is filed within the category having the highest preference and priority, the person conducting the election shall appoint a committee of three people familiar with the issues presented by the measure who favor the position being advocated in the arguments but who have not filed an argument themselves, who shall within 10 days meet and select by majority vote the argument which most fairly and completely states the position being advocated. The decision of the committee shall be final.

5455. When the person conducting the election has selected the arguments for and against the measure which will be printed and distributed to the voters, he shall send copies of the argument in favor of the measure to the authors of the argument against, and

copies of the argument against to the authors of the argument in favor.

The authors may prepare and submit rebuttal arguments not exceeding 250 words.

The rebuttal arguments shall be filed with the county clerk not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

5456. All arguments prepared pursuant to this article and any statement submitted pursuant to Section 5455 shall be verified in the same manner as a pleading in a civil action.

5457. Any bona fide association of citizens which files a written argument pursuant to this article shall include therewith its fictitious name and the names of its officers.

If the argument of a bona fide association of citizens is selected for printing and distribution to the voters, the fictitious name and the names of the officers of the association shall appear in connection with the printed argument.

5458. Whenever a proposition relating to the approval of district bonds and a proposition, which is conditioned by the State Allocation Board on the approval of the bond issue, relating to the acceptance and expenditure of state school building aid funds are to be submitted to the voters of a district on the same ballot, both such propositions may be combined in such a manner that the proposed obligations of the district are clearly expressed and the voter may cast one "Yes" or "No" vote upon such combined proposition.

The combined proposition shall, as nearly as practicable, be worded in accordance with the statutory requirements for the wording of each such proposition.

#### CHAPTER 4. DISSEMINATION OF KNOWLEDGE OF ELECTION PROPOSITIONS

5500. For the purpose of encouraging the study and investigation of the various propositions and constitutional amendments which are submitted to the people and to stimulate interest in, and study of, the propositions by addresses, debates, and general discussions throughout the various institutions of learning of the state, the Secretary of State, shall, within six months after the adjournment of each session of the Legislature, have printed in the manner prescribed by Article 3 of Chapter 1 of Division 4 of the Elections Code a sufficient number of all propositions and constitutional amendments which are to be submitted to a vote of the people at any election.

5501. The Secretary of State shall supply each institution of higher learning with 25 copies, and each high school and elementary school with 10 copies of the propositions and constitutional amendments and deliver them to the Superintendent of Public Instruction.

5502. The Superintendent of Public Instruction or Board of Governors of the California Community Colleges, as the case may be, shall immediately prepare such instructions to the heads of the institutions and schools as he deems sufficient to properly accomplish the object expressed in Section 5500 and shall forward the propositions and constitutional amendments to the heads of the institutions and schools together with the instructions.

## PART 5. PUBLIC SCHOOL PERSONNEL

### CHAPTER 1. PERSONNEL—GENERAL PROVISIONS

#### Article 1. Prohibition of Communist Party Membership

7000. The Legislature of the State of California finds that:

(a) There exists a worldwide revolutionary movement to establish a totalitarian dictatorship based upon force and power rather than upon law.

(b) This worldwide revolutionary movement is predicated upon and it is designed and intended to carry into execution the basic precepts of communism as expounded by Marx, Lenin, and Stalin.

(c) Pursuant to the objectives of the world communism movement, in numerous foreign countries the legally constituted governments have been overthrown and totalitarian dictatorships established therein against the will of the people, and the establishment of similar dictatorships in other countries is imminently threatening. The successful establishment of totalitarian dictatorships has consistently been aided, accompanied, or accomplished by repeated acts of treachery, deceit, teaching of false doctrines, teaching untruth, together with organized confusion, insubordination, and disloyalty, fostered, directed, instigated, or employed by Communist organizations and their members in such countries.

(d) Within the boundaries of the State of California there are active disciplined Communist organizations presently functioning for the primary purpose of advancing the objectives of the world communism movement, which organizations promulgate, advocate, and adhere to the precepts and the principles and doctrines of the world communism movement. These Communist organizations are characterized by identification of their programs, policies, and objectives with those of the world communism movement, and they regularly and consistently cooperate with and endeavor to carry into execution programs, policies, and objectives substantially identical to programs, policies, and objectives of such world communism movement.

(e) One of the objectives of the world communism movement is to place its members in local government positions and in the public school system. If this objective is successful, propaganda can be

disseminated by the members of these organizations among public school pupils by those members who would have the opportunity to teach them and to whom, as teachers, they would look for guidance, authority, and leadership. The members of such groups would use their positions to advocate and teach their doctrines and teach the prescribed Communist Party line group dogma or doctrine without regard to truth or free inquiry. This type of propaganda is sufficiently subtle to escape detection in the classroom.

There is a clear and present danger, which the Legislature of the State of California finds is great and imminent, that in order to advance the program, policies and objectives of the world communism movement, Communist organizations in the State of California and their members will engage in concerted effort to hamper, restrict, interfere with, impede, or nullify the efforts of the governing boards of school districts or community college districts to comply with and enforce Section 51530 which prohibits the advocacy or teaching of communism with the intent to indoctrinate any pupil with or inculcate a preference in the mind of any pupil for communism for the purpose of undermining the patriotism for and the belief in the government of the United States and of the State of California in the minds of the pupils of the public school system.

The Legislature specifically finds that the requirement that all persons (certificated or noncertificated) now employed by the school districts or community college districts of this state, or hereafter making application for employment by any of such districts, shall declare under oath that they are not knowingly members of the Communist Party, is a reasonable measure to meet the clear and present danger hereinabove found.

The Legislature further specifically finds that an indirect or evasive answer to a question relating to any of the matters specified in Section 7004 or 7005, or an answer which neither affirms nor denies shall, for the purposes of this section and chapter, be considered as a failure and refusal to answer, regardless of the ground or explanation given for any such answer.

7001. No person who is knowingly a member of the Communist Party shall after September 9, 1953, be employed by, or, except as provided in Section 7002, retained in the employment of, any school district. Prior to the first day of service as an employee of any school district or community college districts, the applicant shall state under oath whether or not he is knowingly a member of the Communist Party. If the applicant states that he is knowingly a member of the Communist Party, he shall not become an employee of any school district or community college districts.

7002. Any employee of any school district or community college district who on September 9, 1953, is or since October 3, 1945, was knowingly a member of the Communist Party, and who has not previously filed the statement required by this section, shall within ninety (90) days of the effective date of the amendment of this section made at the 1955 Regular Session of the Legislature, file with

the governing board of the district employing him a verified statement that he is no longer a member of the Communist Party and that such membership has been terminated in good faith. Any such employee who fails to file such a statement within the time specified shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

7003. Any employee of any school district or community college district who after September 9, 1953, knowingly becomes a member of the Communist Party shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

7004. It shall be the duty of any employee of any school district or community college district who may be subpoenaed by a United States Congressional Un-American Activities Committee or a subcommittee thereof or a California Legislative Un-American Activities Committee or a subcommittee thereof or any other committee or subcommittee of the United States Congress or the California Legislature or of either house of either thereof to appear before said committee or subcommittee and specifically to answer under oath a question or questions propounded by any member or counsel of the committee or subcommittee relating to:

(a) Present personal advocacy by the employee of the forceful or violent overthrow of the government of the United States or of any state or political subdivision.

(b) Present knowing membership in any organization which, to the knowledge of such employee, advocates the forceful or violent overthrow of the government of the United States or of any state or political subdivision.

(c) Past knowing membership at any time since October 3, 1945, in any organization which, to the knowledge of such employee, during the time of the employee's membership advocated the forceful or violent overthrow of the government of the United States or of any state or political subdivision.

(d) Past knowing membership of such employee in the Communist Party at any time since October 3, 1945.

(e) Present knowing membership of such employee in the Communist Party.

(f) Present personal advocacy by the employee of the support of a foreign government against the United States in the event of hostilities.

Any employee who fails or refuses to answer under oath on any ground whatsoever any such question propounded by any member or counsel of any such committee or subcommittee shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

7005. It shall be the duty of any employee of any school district or community college district who is ordered to appear before the

governing board of the employing school district to appear and specifically to answer under oath a question or questions propounded by a member or counsel of the governing board or by the superintendent of schools relating to any of the matters specified in Section 7004.

Any employee who fails or refuses to appear or to answer under oath on any ground whatsoever any such question propounded by a member or counsel of the governing board or by the superintendent of schools shall be guilty of insubordination and guilty of violating this section and shall be suspended and dismissed from his employment in the manner provided by law.

7006. It shall be sufficient cause for the suspension and dismissal, in the manner provided by law, of any employee of a school district when such employee is knowingly a member of the Communist Party.

7007. Any certificated employee of a school district or community college district who violates any of the provisions of Sections 7001 to 7006, inclusive, shall be guilty of unprofessional conduct and shall be suspended and dismissed in the manner provided by law.

## PART 6. EDUCATION PROGRAMS—STATE MASTER PLANS

### CHAPTER 1. VOCATIONAL EDUCATION

#### Article 1. California Advisory Council on Vocational Education and Technical Training

8000. The California Advisory Council on Vocational Education and Technical Training, hereinafter referred to as the council in this article, is hereby created, consisting of the Director of Employment Development or his representative, a member of the Assembly Education Committee appointed by the Speaker of the Assembly, a member of the Senate Education Committee appointed by the Senate Committee on Rules and 27 members appointed by the Governor. The 19 members originally appointed by the Governor pursuant to the terms of this section as added by Chapter 1555 of the Statutes of 1969, shall serve four-year terms, provided that of the initial appointments by the Governor, four shall serve one year, five shall serve two years, five shall serve three years, and five shall serve four years. Each of the three additional members appointed pursuant to this section as amended at the 1970 Regular Session shall serve for terms of four years. The terms of the five additional members appointed pursuant to this section as amended at the 1971 Regular Session shall be as follows: (a) the person representing the county offices of education shall serve a one-year term; (b) the two persons who are students currently enrolled in a vocational education program shall serve a two-year term; (c) the two persons representing a cross section of industrial, business, professional,

agricultural, and health service occupations shall serve a three-year term.

8001. The Members of the Legislature appointed to the council pursuant to Section 8000 shall meet with, and participate in, the work of the council to the extent that such participation is not incompatible with their positions as Members of the Legislature. The Members of the Legislature appointed to the council shall serve at the pleasure of the appointing power. For the purposes of this article, Article 5 (commencing with Section 2050) of Chapter 1 of Part 8 of this division, and Article 5 (commencing with Section 52380) of Chapter 9 of Part 28 of Division 4 of Title 2, such Members of the Legislature shall constitute a joint legislative committee on the subject of such articles and shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

8002. The members appointed by the Governor shall include:

(a) One person familiar with the vocational education needs and problems of organized labor.

(b) One person familiar with the vocational needs and problems of management.

(c) One person representing the state industrial and economic development agencies.

(d) Three persons representing the community colleges and other institutions of higher education, area vocational schools, technical institutes, and postsecondary or adult education agencies or institutions which may provide programs of vocational or technical education and training.

(e) One person familiar with the administration of state and local vocational education programs.

(f) One person having special knowledge, expertise, or qualifications with respect to vocational education who is not involved in the administration of state or local vocational education programs.

(g) One person familiar with programs of technical and vocational education, including programs of comprehensive secondary schools.

(h) One person representing local community college agencies.

(i) One person representing local secondary education agencies.

(j) One person representing community college governing boards.

(k) One person representing secondary school governing boards.

(l) One person representing elementary schools or elementary school boards.

(m) One person representing county offices of education.

(n) One person representing the manpower and vocational education agencies in the state and the comprehensive area manpower planning system of the state.

(o) One person representing school districts with large concentrations of academically, socially, economically, and culturally disadvantaged pupils.

(p) One person with special knowledge, experience, or qualifications with respect to the special educational needs of physically, emotionally, or mentally handicapped persons.

(q) Two persons who are students currently enrolled in a vocational education program.

(r) Two persons representing a cross section of industrial, business, professional, agricultural, and health service occupations.

(s) Two persons representing the general public, one of whom shall represent and be knowledgeable about the disadvantaged, who are not qualified for membership under any of the preceding subdivisions.

(t) Three persons representing private postsecondary education institutions not provided for in subdivision (d).

8003. Members of the council shall serve without compensation, except that they shall receive their actual necessary expenses incurred in the performance of their duties.

8004. The council shall have the following duties and responsibilities:

(a) Advise the State Board of Education and the Board of Governors of the California Community Colleges in the development and preparation of annual and long-range state plans for occupational education and training.

(b) Prepare and submit a statement to appropriate public agencies, as required pursuant to law, describing its consultation with the State Board of Education, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission on the state plans.

(c) Advise the State Board of Education, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission on policy matters arising in the administration of the state plans.

(d) Evaluate programs of occupational education and training maintained by local educational agencies, and publish and distribute the results thereof.

(e) Prepare and submit through the State Board of Education, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission to the Legislature, United States Commissioner of Education, and the National Advisory Council on Vocational Education, an annual evaluation report accompanied by such additional comments as the state board and the board of governors deem appropriate which (1) evaluates the programs and services carried out in the year under review to meet the objectives set forth in the state plans; (2) recommends such changes as may be warranted by the evaluations.

(f) Perform functions identical with or analogous to those stated in subdivisions (a) to (e), inclusive, with respect to programs carried out under Part B of Title X of Public Law 92-318.

8005. The State Board of Education, the Board of Governors of the California Community Colleges, and the California

Postsecondary Education Commission shall either accept or reject each recommendation made by the council and shall immediately return to the council any recommendation which has been rejected, together with the reasons for the rejection.

8006. The council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this article, and to contract for such services as may be necessary to enable it to carry out its evaluation functions.

8007. There is in the Department of Education and the Board of Governors of the California Community Colleges, a vocational education staff responsible for the design, implementation, and maintenance of a basic integrated statewide information system for vocational education and technical training. The data gathering and analysis capabilities of the system shall include, but not be limited to, the following:

(a) Maintain comprehensive inventory of all programs of all vocational education and technical training programs which are maintained by the public schools.

(b) Facilitate an annual evaluation of programs of vocational education and technical training, including an analysis of the costs of individual programs, enrollment defined in terms of secondary students, postsecondary students and adults, the numbers of graduates of programs, the number of trainees trained for specific entry level occupations, dropout rates, and placement data.

(c) Provide for performing local, area, and state job projections and anticipated requirements of employers.

(d) Facilitate the preparation of reports required by state and federal agencies.

(e) Support the functions of the California Advisory Council on Vocational Education and Technical Training.

8008. The system provided for in Section 8007 shall be designed, implemented, and maintained in accordance with Chapter 7 (commencing with Section 10600) of Part 7 of this division.

8009. There is hereby appropriated from the General Fund a sum equal to the annual federal appropriation to California for state vocational advisory councils not to exceed one hundred fifty thousand dollars (\$150,000) for the 1974-75 fiscal year to the California Advisory Council on Vocational Education and Technical Training for purposes of carrying out the council's duties and responsibilities as provided for by this article.

## Article 2. Regional Adult and Vocational Education Councils

8020. There shall be created within the state, a number of regional adult and vocational education councils, which shall have boundaries as determined by local school districts, and approved by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges. Regional boundaries shall be

coterminous with the boundaries of community college districts, and a region may consist of one or more adjacent community college districts. The superintendent and chancellor shall jointly publish guidelines for application by school districts and community college districts for the formation of regional adult and vocational councils.

8021. By June 30, 1976, each community college district, high school district, unified school district, and county office of education shall be a participant in a regional adult and vocational education council.

8022. Notwithstanding any other provision of law, existing adult continuing education coordinating councils with an average daily attendance of over 700,000 or having boundaries which are coterminous with those of a city and county, shall be designated regional adult and vocational education councils and all agreements, as to members, meetings, delineation of function, shall continue in force; and such councils shall comply with all other provisions of this article.

8023. To assure an orderly transition, the Superintendent of Public Instruction and Chancellor of the California Community Colleges shall prescribe and publish regulations for regional adult and vocational education councils within 90 days of the operative date of this article. Such regulations shall include procedures for nominating persons for election to membership on a regional adult and vocational council.

8024. Each regional adult and vocational education council, shall be composed of 11 members, as follows:

(a) Four representatives of high school or unified districts within the council boundaries, selected by a plurality of the votes cast by the governing boards of such districts. Each district governing board shall have one vote in the selection of each council member. In any instance where the region encompasses five or more unified or high school districts, selection of representatives shall be in accordance with the regulations established under Section 8023.

(b) Four representatives of the community college district or districts within the council boundaries, selected by the governing board or boards of such district or districts.

(c) A representative of a county office of education selected by the governing board. In any instance where the region spans portions of two or more counties, the governing board of the larger county by population shall make the selection.

(d) A representative of a prime sponsor under the Federal Comprehensive Employment and Training Act of 1973, or his designee.

(e) A representative of a private postsecondary educational institution selected by the administrators of the private postsecondary educational institutions in the region. Each private postsecondary educational institution shall have one vote in the election of the representative.

Members of the council shall serve terms of two years. Vacancies

shall be filled by the appointing power for the remainder of the term of the vacant position.

8025. The regional adult and vocational education council shall appoint a vocational and continuing education advisory committee to develop recommendations on the existing program, provide liaison between the programs and potential employers, and assist in the development of a plan for the short-term improvement of vocational and continuing education.

The committee shall be composed of not more than 18 members, consisting of single-member representation from each of the following agencies:

(a) Regional occupational centers and regional occupational programs.

(b) A state university or college or campus of the University of California.

(c) A field office of the Employment Development Department.

(d) One or more representatives from each of the following categories:

(1) Handicapped;

(2) Disadvantaged;

(3) Teachers;

(4) Business and industry;

(5) Labor, the Joint Apprenticeship Committee, and labor management;

(6) Any significant racial or ethnic minority, or both, in the region; and

(7) Students.

Each member of an advisory committee shall serve a term of three years. Vacancies shall be filled by the appointing power for the remainder of the term of the vacant position.

8026. The regional adult and vocational education council may retain staff to assist the council.

8027. Each regional adult and vocational education council shall meet and review:

(a) Adult continuing education plans and offerings delineated under Sections 8530, 8531, 8532, 8533, 8534 and 8535;

(b) Regional occupational programs and centers plans and offerings under Section 52300;

(c) Plans of a community college district or unified school district to change a course offered pursuant to Sections 51810 or 78300 to a course for which the district would receive state apportionments.

(d) Plans of a community college district to change a course offered as adult education to a regular graded course.

(e) All plans required to be submitted by Comprehensive Employment Training Act prime sponsors to either the State Board of Education or the California Manpower Services Council.

8028. Each regional adult and vocational education council shall make recommendations to the respective boards, in order to eliminate unnecessary duplication of offerings and to recommend

the appropriate level of instruction for new offerings. Each council shall submit to the Chancellor of the California Community Colleges, the Superintendent of Public Instruction and the California Postsecondary Education Commission the following:

(a) A delineation of function agreement which shall have been approved by the respective boards and which shall include a mutual agreement or agreements covering Sections 8530, 8531, 8532, 8533, and 8534, to be submitted within one year of the council's establishment.

(b) An articulation agreement between the respective boards, to be submitted within one year of the council's establishment.

8029. Each regional adult and vocational education council shall recommend plans and offerings reviewed pursuant to Section 8027 for approval for state apportionments by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges, respectively. A recommendation for approval shall be agreed to by a majority of the members of the regional adult and vocational education council.

The superintendent and chancellor shall jointly promulgate regulations regarding criteria to be used by each council in reviewing courses and making recommendations for approval or disapproval for state apportionments. No course shall be recommended for approval by a council if the council determines it to be an unnecessary duplication. Final course approval for eligibility for apportionments shall be the responsibility of the superintendent and the chancellor, respectively.

Any affected district may appeal a decision of a regional adult and vocational education council. An appeal shall document the reasons for the appeal and shall be filed within 30 days of the decision of the council. The district may appeal to the Chancellor of the California Community Colleges, in the case of a community college district, or the Superintendent of Public Instruction, in the case of any other school district, within 30 days of the decision of the council. The chancellor or superintendent, as the case may be, shall notify the district and the respective council of his decision within 30 days of receiving the appeal.

The appellant district shall send a copy of any appeal filed with the Chancellor of the California Community Colleges or the Superintendent of Public Instruction to the California Postsecondary Education Commission.

8030. (a) Unnecessary duplication of courses shall be deemed to have occurred when two local education agencies or programs offer the same vocational or adult course to the same type of student population using similar operational characteristics as to prerequisites, unless one agency reports that it cannot meet the needs of all students requiring such services.

(b) Unnecessary duplication of services shall be deemed to have occurred when a local educational agency or program is opened to adults for the first time and draws students from existing approved

adult education programs, without mutual agreement, under Section 8516.

8031. Each regional adult and vocational education council shall, with the assistance of the advisory committee, develop a plan for the short-term improvement of vocational and continuing education, which includes a needs assessment of skills in demand to be determined from regional analysis. Subject to legislative appropriations therefor, a manpower management information system shall also be utilized in the development of plans.

Each regional adult and vocational education council shall annually file, on or before each June 30, a plan with the State Board of Education, the Board of Governors of the California Community Colleges, the affected district governing boards and regional occupational center and program, the California Advisory Council on Vocational Education and Technical Training, and the California Postsecondary Commission, for the short-term improvement of vocational and continuing education programs.

8032. Each regional adult and vocational education council shall meet on a regular basis and no less than once every two months.

8033. Each regional adult and vocational education council shall annually file, on or before each June 30, a report of its activities with the State Board of Education, the Board of Governors of the California Community Colleges, the California Postsecondary Education Commission, and affected district governing boards and regional occupational centers and programs.

8034. The Superintendent of Public Instruction and Chancellor of the California Community Colleges shall provide information relative to duplication for the use of the regional adult and vocational education council, and may prescribe further regulations to prevent unnecessary duplication, facilitate organization, reporting procedures and to insure public input and access to all decisions by the regional adult and vocational education councils.

8035. The Chancellor of the California Community Colleges and the Superintendent of Public Instruction shall each submit to the Legislature by August 1, 1976, a report regarding the establishment and operation of regional adult and vocational educational councils. The Legislative Analyst shall analyze the effectiveness of the regional adult and vocational education councils one year after the effective date of this article, and shall report thereon to the Legislature.

### Article 3. Local Advisory Committees

8070. The governing board of each school district and community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representatives of the

general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

#### Article 4. Expansion of Cosmetology Courses

8080. For purposes of this chapter the determination of definite need shall be established by the appropriate body as follows:

(a) The determination of need for a regional occupational center shall be established by the governing body of the agency maintaining the center.

(b) The determination of need for a high school shall be established by the governing body of the district maintaining the high school.

(c) The determination of need for a community college shall be established by the governing body of the district maintaining the community college.

(d) The determination of need for the state universities and colleges shall be established by the Trustees of the California State University and Colleges.

8081. (a) After November 23, 1970, no programs, courses, classes, or instruction in cosmetology, as defined by Section 7321 of the Business and Professions Code, shall, except as provided in subdivision (b), be initiated or expanded by any regional occupational center, high school, public community college, or campus of the California State University and Colleges unless and until a determination has been made, by the appropriate body pursuant to Section 8080, that a definite need exists for the initiation or expansion of such instruction and that existing private institutions offering the same or similar instruction are not adequately meeting that need.

(b) Notwithstanding the provision of subdivision (a) of this section, a regional occupational center, high school, public community college, or campus of the California State University and Colleges may initiate or expand programs, courses, classes, or instruction in cosmetology even though the appropriate body has determined that no definite need exists. In order to do so, the governing body maintaining the institution which will establish the programs, courses, classes, or instruction shall read the report of the appropriate body at a public meeting.

8082. The appropriate body, as defined in Section 8080, in making a determination of need as prescribed by Section 8081, shall give consideration to the existence of private institutions offering instruction in cosmetology within or near the service area of the public institution proposing to initiate or expand such instruction and the reasonableness of the cost to the students taking such instruction.

8083. The determination of need, as required by this chapter, shall not be applicable to the initiation or expansion of a program to the extent previously approved and implemented prior to

November 23, 1970, or with respect to expansion of a program to maximize the utilization of facilities acquired or approved for acquisition prior to November 23, 1970.

8084. The appropriate body, as referred to in Section 8080, shall report its findings within 90 days from the date of being notified by a regional occupational center, high school, community college, or campus of the California State University and Colleges of its intent to initiate or expand its teaching of cosmetology.

#### Article 5. Vocational Education Contracts

8090. Any state agency, including but not limited to school districts, and any community organization organized pursuant to the Economic Opportunity Act of 1964 (P.L. 452, 88th Congress (78 Stat. 508)) or any other similar training or retraining program authorized by the federal or state governments, may enter into contracts with private business, trade and technical schools to provide training and retraining programs when such private business, trade and technical schools have facilities available to provide such training and retraining. The attendance of pupils in courses of a private school pursuant to a contract authorized by this section shall not be counted for reporting to the Department of Education for the purpose of receiving apportionments from the State School Fund unless such contract also meets the requirements of Section 8092.

8091. Any state agency, including but not limited to local school districts, community college districts and any community organization organized pursuant to the Economic Opportunity Act of 1964 (Public Law 452, 88th Congress (78 Stat. 508)) or any other similar training or retraining program authorized by the federal or state governments, may use any federal, state, local, or private funds to provide training or retraining programs operated by private business, trade and technical schools.

8092. Any school district or districts; any community college district or districts; any county superintendent or superintendents; or the governing body of any agency maintaining a regional occupational center or program may contract with a private postsecondary school approved pursuant to the provisions of Chapter 3 (commencing with Section 94300) of Part 54 of Division 10 of Title 3 to provide vocational skill training authorized by this code.

All contracts between a public entity and a private educational institution entered into pursuant to this section shall:

(1) Be approved by the Department of Education or Chancellor of the California Community Colleges as appropriate pursuant to rules and regulations adopted by the State Board of Education or the board of governors as appropriate;

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the public schools or the tuition the private institution charges its private students, whichever is lower;

(3) Provide that the public school students receiving training in a private educational institution pursuant to such contract may not be charged additional tuition for any training included in the contract. The attendance of such students pursuant to a contract authorized by this section shall be credited to the public school entity for the purposes of apportionments from the State School Fund;

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California Plan for Vocational Education.

The students who attend a private postsecondary school pursuant to a contract under this section shall be enrollees of the public school entity and the attendance of such students at the private school shall be credited to the public school entity for the purposes of apportionments from the State School Fund.

The State Department of Finance and the Department of Education, or the board of governors, as the case may be, may audit the accounts of both the public entity and the private party involved in such contracts to the extent necessary to assure the integrity of the public funds involved.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

8092. Any school district or districts; any community college district or districts; any county superintendent or superintendents; or the governing body of any agency maintaining a regional occupational center or program may contract with a private postsecondary school approved pursuant to the provisions of Chapter 3 (commencing with Section 94300) of Part 54 of Division 10 of Title 3 to provide vocational skill training authorized by this code.

All contracts between a public entity and a private educational institution entered into pursuant to this section shall:

(1) Be approved by the State Department of Education or chancellor as appropriate pursuant to rules and regulations adopted by the State Board of Education or the board of governors as appropriate;

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the public school or the tuition the private institution charges its private students, whichever is lower;

(3) Provide that the public school students receiving training in a private educational institution pursuant to such contract may not be charged additional tuition for any training included in the contract. The attendance of such students pursuant to a contract authorized by this section shall be credited to the public school entity for the purposes of apportionments from the State School Fund;

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California Plan for Vocational Education.

The students who attend a private postsecondary school pursuant to a contract under this section shall be enrollees of the public school entity and the attendance of such students at the private school shall be credited to the public school entity for the purposes of apportionments from the State School Fund.

The State Department of Finance and the State Department of Education, or the board of governor, as the case may be, may audit the accounts of both the public entity and the private party involved in such contracts to the extent necessary to assure the integrity of the public funds involved

8093. The provisions of Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 of Division 3 of Title 2, or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of Division 7 of Title 3 shall not apply to any building which is used by a private

postsecondary school for purposes of providing vocational skill training for pupils pursuant to a contract under Section 8092 entered into by a public school entity and a private educational institution; provided that all of the following requirements are met:

(a) The building is not owned, leased, rented, or being purchased by, nor situated on property owned or being purchased by, a public school entity, and

(b) The only public school purpose for which such building is used is pursuant to a contract entered into pursuant to Section 8092, and

(c) Such building is not reconstructed, altered, or added to by a public school entity at a cost exceeding ten thousand dollars (\$10,000).

#### Article 6. Approval of Courses

8100. The Superintendent of Public Instruction or the board of governors as the case may be shall approve courses of vocational training for the purposes of loans authorized by Section 7185 of the Financial Code.

#### Article 7. Vocational Manpower Management Information System

8120. It is the intent of the Legislature to encourage the development of programs in the vocational educational curriculum which reflect the skill demands determined from local and area employment surveys.

8121. The Superintendent of Public Instruction in cooperation with the Director of Employment Development and the Chancellor of the California Community Colleges shall establish in the Department of Education a vocational manpower management information system to provide educators, students, and manpower planners in the state's vocational planning areas, standard metropolitan statistical areas, and other geographical areas in the state with statistical data and comprehensive information on current and projected occupational demand and supply relationships in local labor markets, and appropriate socioeconomic data, and to assist in gathering related information from all possible sources relevant to the process of effective vocational education and manpower development planning in the state.

### CHAPTER 2. CHILD DEVELOPMENT ACT

#### Article 1. General Provisions

8200. This chapter shall be known and may be cited as the Moretti-Lewis-Brown-Rodda Child Development Act.

8201. The purpose of this chapter is as follows:

(a) To provide as a concomitant part of the educational system an

integrated plan for the care and development of children in the absence of their parents which places primary emphasis upon: 1) the preparation of preschool age children for effective matriculation in the educational programs of their community when they reach school age, and 2) the improved educational performance of children of school age with particular emphasis upon those children who require special assistance including bilingual capabilities to attain their full potential.

(b) To provide parents with an opportunity to: 1) attain the capacity to provide support for their family through employment, 2) undertake educational activities which will assist them in providing an improved level of parental care and supervision of their children, and 3) participate with the child development program in assisting in provision of the full range of child development services contemplated by this division. It is the intent of the Legislature that any parent who enrolls his child in any child development program authorized by this division shall be allowed to participate in the planning, evaluation, and modification of child development programs.

(c) To provide a comprehensive system of child development services for prekindergarten and school-age children and their parents that includes a full range of education, supervision, health, and social services through full- and part-time programs.

8202. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, it is the policy of this state that no child shall be hungry while in attendance in child development facilities as defined in Section 8210 and that child development facilities have an obligation to provide for the nutritional needs of children in attendance.

8203. It is the intent of the Legislature that in providing child development programs the Superintendent of Public Instruction will give priority to children of families who qualify under federal regulations as former, current, or potential recipients of public assistance and other low-income and disadvantaged families. Federal reimbursement shall be claimed for any child receiving services under this division for whom federal funds are available.

It is further the intent of the Legislature to maximize the Department of Education's capacity to stimulate and coordinate resources, provide technical assistance, monitor program implementation, generate maximum federal reimbursement wherever possible for the federally eligible children, and to provide alternative funding from state and local agencies for those children eligible pursuant to Sections 8249 and 8380.

8204. The Department of Education is hereby designated as the single state agency responsible for the promotion, development and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties.

8205. The Superintendent of Public Instruction shall, pursuant to

Section 204 of the Intergovernmental Cooperation Act of 1968, request such waivers of single state agency requirements as are necessary in order to utilize available federal funds for the purposes of this division.

8206. Until such waiver is granted by the federal government, the single state agency authorized by federal law to provide any child care service provided for in this division shall have only such functions, duties and responsibilities conferred by this division upon the Department of Education and the Superintendent of Public Instruction with respect to such child development services as are required by federal law and regulation. In such event, such single state agency shall provide child development services under a purchase of service agreement with the Superintendent of Public Instruction from funds appropriated for such services. The Superintendent of Public Instruction shall provide the necessary documents required by the federal government pursuant to this section to support the state's claim for federal reimbursement and shall certify that the school district, community college district, or other organization providing the care, has available the accounting records and other supporting documents to justify the claim for reimbursement and that such records are available for audit by the State Controller and by any authorized federal agency.

8207. As used in this chapter, "parent" includes any person having legal custody of a child.

8208. The term "workday" is defined as that time the parent requires temporary care for a child for any of the following reasons:

- (a) To undertake training in preparation for a job.
- (b) To undertake or retain a job.

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

8209. For the purposes of this chapter, "cost" shall mean all program costs that are related to the operation of child development programs. "Cost" shall include the state contribution and the school district's or community college district's portion of retirement costs, a pro rata share of the district's overhead, and any other program-related cost.

8210. Child development facility means any facility providing child care services pursuant to this division for less than 24 hours a day consistent with Section 8243 pursuant to this chapter.

8211. Child development services means child care provided for any part of a workday by public or private agencies and may include, but is not limited to, the following:

- (a) Developmental activities for prekindergarten children which are not a part of the formal school program but which will prepare them for effective matriculation into the formal school programs within the community and shall include, but not be limited to, practical life, sensorimotor, perceptual discrimination, language

development and symbol-formation activities.

(b) Full- or part-day supervision, developmental activities and instruction for children 14 years of age or younger in a program approved pursuant to this division.

(c) Full- or part-day supervision and developmental activities for children five years of age or younger in a program approved pursuant to this division.

(d) Full- or part-day supervision, developmental activities and instruction of children 14 years of age or younger, for less than 24 hours a day, in a home licensed pursuant to Section 1310 of the Health and Safety Code.

(e) Instruction in children's developmental activities for parents with prekindergarten children.

(f) Social services as necessary to insure parent-child adjustments to out-of-home-care situations, child development referral services, child placement counseling and other support services when the parent is employed, in training, or physically or mentally incapacitated.

(g) Health screening and health treatment to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(h) Nutrition services to provide a balanced diet to needy children enrolled and instruction of food buying and preparation to the parents of children within the child development program.

(i) Night shift or late-hour supervision and developmental activities for children 14 years of age or younger in a program approved pursuant to this division.

(j) A nutritionally adequate breakfast or a nutritionally adequate lunch, or both.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which meets one-third of the daily dietary allowance as established by the National Research Council. Where both breakfast and lunch are provided, they shall, together, provide one-half to two-thirds of this recommended daily dietary allowance.

8212. The term "elementary school" contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended) shall include early childhood education programs and preschool classes, including preschool classes in children's centers, for the purpose of the cancellation provisions of the Loans to Students in Institutions of Higher Learning.

8213. Applicant or operating agency means a school district, or community college district, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain or operate services pursuant to this division. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of

parental decisionmaking prerogatives as consistent with the provisions of this chapter.

## Article 2. Administration

8240. The Department of Education shall develop and promote a full range of services as are essential to the creation of a child development program which will meet a wide variety of child needs. The range of services shall include as a minimum, all of the services listed in Section 8211.

Priority shall be given by the Department of Education to the employment of persons in child development programs with ethnic backgrounds which are similar to those of the child for whom child care services are provided.

8242. The Department of Education shall assist the state Departments of Employment Development, Benefit Payments, and Health by offering training and job opportunities in local child development programs for recipients of public assistance and to those persons who qualify under federal regulations as former, current or potential recipients of public assistance.

8243. The Superintendent of Public Instruction shall be responsible for the formulation, promotion, approval, and monitoring of a variety of child development programs and delivery systems in all communities of this state where the need therefor exists. The Superintendent of Public Instruction may continue or adapt child development programs currently contracted with the Department of Education pursuant to this division. Such programs shall provide child development services at the minimum cost possible consistent with required quality of service and the specific needs of the particular child.

8244. The Superintendent of Public Instruction shall, within the limitation of funds allocated for such purpose, enter into agreements with appropriate applicant or operating agencies for the establishment, maintenance or operation of child development services pursuant to this division. The Superintendent of Public Instruction may also enter into agreements with any public or private agency for the furnishing of property, facilities, personnel, supplies, equipment, and other necessary items.

8245. The Superintendent of Public Instruction shall adopt rules and regulations that provide for procedures and standards for the accreditation of neighborhood family day care homes. Neighborhood family day care homes may be accredited by the school district in which the home is located in accordance with the rules and regulations of the Superintendent of Public Instruction. Any neighborhood family day care home accredited by a school district shall be exempt from licensure required by the provisions of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

8246. The Superintendent of Public Instruction shall be

responsible for the formulation and conducting of public hearings essential to the establishment and promotion of all aspects of this division and shall be responsible for preparing any state plan required by federal law in order that this state may qualify for any federal funds available for the care of children.

8247. The Superintendent of Public Instruction shall provide the Director of Finance and the State Controller with a basic plan for the filing of claims and for reimbursement for the distribution of any federal funds which are received by this state for child development services. The Superintendent of Public Instruction and the State Controller shall establish the necessary plans to advance funds received from the federal government in order that the various school districts, or community college districts, county superintendents of schools or other authorized organizations will be able to provide the child development services described by this chapter.

8248. The Superintendent of Public Instruction shall adopt rules and regulations which shall include standards for determining eligibility and priority of service. Children who qualify for services pursuant to programs which are in whole or in part federally funded shall have first priority. Former, current or potential recipients shall be defined as those persons for whom federal reimbursement for care of children is allowed by any federal law or regulation relative to services to children or for child care or child development. The information necessary to establish eligibility of a child for federal reimbursement shall be completed as a part of intake procedures used in accepting a child for care or service.

In the event the superintendent is forced to curtail services, because of a lack of or limitation placed upon the availability of federal funds to carry out the purposes of this chapter, he shall reduce the scope of the program by giving priority for services to those persons who are engaged in a federal- or state-mandated education or training program.

The regulations formulated and promulgated pursuant to this section shall include the recommendations of the Department of Health relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or handicapped children.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

8249. The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child development services pursuant to this division. No recipient of public assistance shall pay a fee. The schedule shall define fees as a proportionate share of actual or maximum reimbursable program costs, whichever is less. This fee schedule may conform to and be an extension of that allowed by the federal social service regulations. If, when, and during such times as

the United States government increases the minimum and maximum income levels according to which federal regulations assess fees for social services, this fee schedule may be increased by the amounts permitted.

The fees assessed under this schedule shall begin at 10 percent of program costs for families whose gross monthly income, less thirty dollars (\$30), is 151 percent of the aid for families with dependent children payment standard and progresses proportionately to 50 percent of program costs for families whose gross monthly income, less thirty dollars (\$30), is 300 percent of the aid for families with dependent children payment standard. The aid for families with dependent children standard as referred to in this section is as defined within Section 11450 of the Welfare and Institutions Code. The further extension of this fee schedule shall be limited to families eligible to participate in the pilot study pursuant to Article 3 (commencing with Section 8280) of this chapter. The fee schedule as described within this section shall apply without priority statewide to the following family groups:

(a) Families who meet all federally eligible tests and whose gross monthly income, less thirty dollars (\$30), ranges from 151 percent to 233 $\frac{1}{3}$  percent of the aid to families with dependent children payment standard.

(b) Families who qualified as federally eligible during the 1972-73 fiscal year but lose federal eligibility because of changes in the federal social service regulations and include the following subgroups:

(1) Families with a gross monthly income equal to or less than 150 percent of the aid to families with dependent children payment standard whose loss of federal eligibility is based on factors other than income;

(2) Families whose gross monthly income, less thirty dollars (\$30), ranges from 151 percent to 233 $\frac{1}{3}$  percent of the aid to families with dependent children payment standard whose loss of federal eligibility is based on factors other than income; and

(3) Families whose gross monthly income, less thirty dollars (\$30), exceeds from 233 $\frac{1}{3}$  percent but is less than or equal to 300 percent of the aid to families with dependent children payment standard.

The hours of service available to families eligible under subdivision (b) shall not exceed the appropriation for such hours within subdivision (a) of Section 32 of the act which added this section. Priorities for allocation of hours within subdivision (b) shall be: first, families with incomes less than 233 percent of the aid to families with dependent children payment standard, and secondly, single parent families.

(c) Other low-income or disadvantaged families who do not qualify as current, former, or potential public assistance recipients under federal regulations in effect during the 1972-73 fiscal year.

The hours of service available under subdivision (c) shall not exceed the total hours utilized by families qualifying for services

within this category during the 1972-73 fiscal year. For the purposes of this section, the costs of child development services reimbursable under this fee schedule shall not exceed cost standards for services as established by the Superintendent of Public Instruction and such services must meet reasonable and uniform standards pursuant to Section 8251.

For purposes of this section, monthly family income for families eligible to services in migrant day care centers shall be defined as the average of monthly income received during the preceding calendar year.

The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative, of the child development centers will certify children as eligible for state reimbursement pursuant to this section. Until such time as the Department of Education receives the single state agency waiver pursuant to Section 8205, the Superintendent of Public Instruction, in cooperation with the Secretary of the Health and Welfare Agency or his designee and the Director of the Department of Social Welfare, shall establish guidelines to permit the director of a child development service to submit names of federally eligible candidates with supporting documents to the appropriate person at the county welfare departments so that these candidates may be verified as federally eligible pursuant to the requirements of the social service regulations.

This section shall remain in effect only until July 1, 1976, and as of that date is repealed.

8250. Notwithstanding any provision of law to the contrary, the Regents of the University of California, the Trustees of the California State University and Colleges, the governing boards of community college districts, and the governing bodies of any private nonprofit institution of postsecondary education may establish and maintain child development centers on or near their respective campuses.

The Department of Education may accept funds from the Regents of the University of California, the Trustees of the California State University and Colleges, the governing boards of community college districts, any other private nonprofit postsecondary institutions, student fees, parent fees, and any private funds or resources authorized by a public or private nonprofit agency as the 25-percent local share to obtain the 75-percent state matching funds. The governing board of any postsecondary education institution shall establish in its treasury a fund to be known as the "child development fund" into which shall be paid all funds received by the postsecondary institution for, or from the operation of, child development services under this division. The costs incurred in the maintenance and operation of child development services shall be paid as required pursuant to Section 8328.

The Superintendent of Public Instruction shall adopt rules and regulations to facilitate the funding and reimbursement procedures required by this division.

The Superintendent of Public Instruction, with approval by the State Board of Education, shall establish rules and regulations governing programs operated pursuant to this section which shall insure that subsidized day care provided to student families shall relate to the academic load of the child's parents. The definition of full- and part-time student shall be determined as the segment of postsecondary education defines full- and part-time student for academic purposes.

8250.1. A student family, for the purposes of this division, shall be defined as a family with a parent enrolled in an approved academic or vocational program, including one engaged in an educational work-in-training program, leading to a degree which will either further that person's educational or employment potential, or both.

A low-income student family, for purposes of this division, shall be defined as a family whose gross monthly income, less sixty dollars (\$60), is equal to or less than 300 percent of the Aid for Families With Dependent Children Program's minimum basic standard of adequate care.

8251. The Superintendent of Public Instruction shall establish reasonable standards and maximum reimbursement rates for the delivery of specific types of child development services pursuant to Section 8211 and consistent with Section 8243. No child development program shall be approved or maintained for the 1974-75 fiscal year unless the program costs are within these reimbursement rates and meet these reasonable standards.

The Superintendent of Public Instruction may establish such regulations as he deems advisable concerning conditions of service and hours of enrollment for children in the programs.

8252. No standard, rule or regulation shall require medical examination or immunization for admission to a children's center of a child whose parent or guardian files a letter with the governing board of the school district stating that such medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the center because of parent or guardian having filed such a letter; provided, however, that whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child may be temporarily excluded from the center until the governing board of the school district or community college district is satisfied that any contagious or infectious disease does not exist.

8253. The State Board of Education shall prescribe minimum educational standards for child development programs under this chapter and it shall be the responsibility of the Department of Education to see that such standards are complied with in all programs established.

8254. The Governor shall appoint an advisory committee composed of one representative from the State Advisory Health Council, one representative from the Department of Employment Development, one representative from the State Board of

Education, one representative from the State Benefit Payments Board, one representative of the Director of Education, one representative of the Director of Benefit Payments, one representative of the Director of Health, and one representative of private education, one representative of child welfare, one representative of private health care, one representative of a proprietary child care agency, one representative of a community action agency qualified under Title II of the Economic Opportunity Act of 1969, and five parents of children participating in the program appointed from names selected by a democratic process to assure representation of the parents of children being served, and three persons representing professional or civic groups or public or nonprofit private agencies, organizations or groups concerned with child development programs.

The advisory committee shall assist the Department of Education in developing a state plan for child development programs pursuant to this division.

The advisory committee shall continually evaluate the effectiveness of such programs and shall report thereon at each regular session of the Legislature.

A "proprietary child care agency" is an organization or facility providing child care, which is operated for profit.

8255. The Superintendent of Public Instruction shall arrange for the employment of the community social service personnel deemed necessary to provide the home care recruitment activities, child placement services, and the parent counseling services for those parent-child adjustment problems which arise. Such personnel shall be assigned in relation to the need therefor.

8256. (a) The Superintendent of Public Instruction shall establish standards for the qualification of child development facilities as places of instruction and on-the-job training in preschool and child development services for persons fulfilling requirements for teaching credentials and permits and persons enrolled in child development courses, subject to approval by the Trustees of the California State University and Colleges and the Board of Governors of the California Community Colleges. The standards shall be so designed that credit given for such instruction of community college students and on-the-job training courses may be accepted towards degrees offered by both the California State University and Colleges and the community colleges.

(b) To the extent that there are child development facilities qualified under subdivision (a), the California State University and Colleges, the community colleges, and school districts may conduct instruction in preschool and child development services at such child development facilities, pursuant to contracts with the body operating the child development facilities. Such contracts shall include provision for the payment of all costs of operation as related to the state universities and colleges, the community colleges, or the school districts, including overhead costs.

## Article 3. Pilot Study

8280. The Legislature declares the need for a two-year pilot study to develop and test a coordinated child care delivery system which shall provide the parent a choice in selecting quality child care at costs responsive to the parent's willingness and ability to pay.

The objectives of the pilot study shall include but not be limited to the following objectives:

(a) To measure the effectiveness and efficiency of a delivery system which permits the eligible parent to select and purchase child care services based on a fee schedule requiring the parent to pay a proportionate share of the child care costs; to determine the existing types of care and range of services; to measure changes in the use of these services and development of alternate types of care as determined by parent choice; to stimulate a variety of alternate child care resources; to describe the demographic characteristics of the population seeking these services and their incidence by type of service selected; to assess the costs of delivering these services.

(b) To determine the applicability of the fee schedule described in Section 8249, to define the income level at which the fee schedule no longer applies as measured by its limited utility in aiding low-income families to obtain or maintain employment; to define appropriate eligibility criteria and priorities for services; and to define appropriate standards for cost and quality of types of care and services.

(c) To develop and evaluate appropriate eligibility and certification procedures and parent fee payment procedures; to identify informational needs and accountability requirements of the child care delivery system; to develop and evaluate appropriate monitoring and accountability mechanisms required by the system.

(d) To develop the management guidelines, policies and techniques for administering the system statewide and to develop strategies for phasing out the existing system and introducing the new on a statewide basis.

8281. (a) The site for the pilot study shall be selected according to the following criteria:

(1) It is representative of the majority of the population requiring subsidized child care services throughout the state.

(2) It has a documented demand for child care services;

(3) The facilities and range of services are typical of those occurring throughout the state; and

(4) It has a documented interest in alternate child care arrangements and delivery systems.

(b) Eligibility to participate in the pilot study shall be limited to those families residing within the pilot study area who are: (1) current recipients of Aid for Families with Dependent Children, (2) defined within subdivisions (a), (b), and (c) of Section 8249, and (3) require child care services to obtain or maintain employment or training and whose gross family income falls within the limits of the

fee schedule as developed by the pilot study consistent with the objectives specified within subdivision (b) of Section 8280. The number of families eligible to participate within subdivision (b) (3) of this section shall be limited by the funds appropriated for the pilot study within Section 32 of the act which added this section and may not exceed 1,200 families or approximately 1,800 children.

(c) The eligibility of an agency or entity as defined within Section 8213 to provide child care services under the pilot study to eligible families residing within the study area shall be contingent upon (1) its selection by the eligible family and (2) its conformity to standards and regulations developed by the pilot study and consistent with this division.

8282. The Department of Education shall administer the pilot study described within Sections 8280 and 8281. The Superintendent of Public Instruction shall be responsible for conducting continuous evaluation of the study, and providing technical assistance to encourage development of child care resources within the pilot study area. He shall report to the Legislative Budget Committee the plan for implementing this pilot study no later than 45 days following the effective date of the act which added this section. He shall submit a progress report on the status and evaluation of the pilot study no later than June 1, 1974, and every six months thereafter until the conclusion of the study.

A final report shall be submitted to the Legislature by the Superintendent of Public Instruction on or before January 1, 1976, and such report shall include the results of the study and recommendations for implementing a coordinated, statewide child care delivery system based on these results.

8283. The Director of the Department of Finance and the Secretary of the Health and Welfare Agency or their designees shall serve in an advisory capacity to the Superintendent of Public Instruction for the purpose of reviewing, monitoring and evaluating the pilot study plan, implementation, and progress pursuant to Sections 8280 and 8281. The results of this review and evaluation shall be submitted to the Legislature with the reports required of the Superintendent of Public Instruction pursuant to Section 8282.

8284. The planning phase of this pilot study shall begin within 15 days of the effective date of the act which added this article. Implementation of the study within a selected test site shall begin no later than February 1, 1974, and shall continue through June 30, 1976.

8285. This article shall remain in effect only until July 1, 1976, and as of that date is repealed.

#### Article 4. Local Programs

8320. The governing board of any school district or community college district or a county superintendent of schools with the approval of the county board of education is authorized to establish and maintain child development programs upon the approval of, and

subject to the regulations of the Superintendent of Public Instruction.

8321. The county superintendent of schools in each county, with the approval of the county board of education and the Superintendent of Public Instruction, shall have the authority to establish and maintain children's centers in the same manner and to the same extent as governing boards of school or community college districts, except that nothing in this section shall be construed as vesting in the county superintendents of schools any authority to alone effect the levy and collection of any county, school, or other local taxes for the support of any such centers.

The establishment and maintenance of any children's center by the county superintendent of schools shall be undertaken, subject to the prior approval of both the county board of education and the Superintendent of Public Instruction, upon the application of one or more school districts under his jurisdiction, and such maintenance shall be upon such terms and conditions as may be provided for in a written contract entered into between the county superintendent of schools and the governing board of any such district.

8322. The governing board of any school district or community college district or the county superintendent of schools may accommodate in a child development facility maintained by it children residing in another district, upon such terms and under such conditions as may be agreed upon by the governing boards of both districts.

8323. The governing board of any school district or community college district or the county superintendent of schools may permit the use of and furnish maintenance for buildings, grounds, and equipment, and the use of existing administrative personnel for the purposes of this chapter.

8324. The employees of school districts or community college districts, or county superintendents of schools in preschool and other types of child development services under this division shall have the same rights and privileges as are granted to employees of the same agencies in children's centers.

8325. The governing board of any school district or community college or the county superintendent of schools may adopt such reasonable rules and regulations governing the child development services or facilities maintained by it as are not in conflict with law or the standards and regulations established for child development services by the Superintendent of Public Instruction.

8326. Notwithstanding any other provisions of this division, a public or private agency, a school district, a community college district or a county superintendent of schools operating child development facilities may enter into an agreement with the Department of Employment Development which will provide an opportunity to participants in work incentive programs under Division 2 (commencing with Section 5000) of the Unemployment Insurance Code for training in child development facilities. Training

pursuant to such agreement shall have the objective of preparation for a career in the field of child care.

8327. Notwithstanding any other provision of this chapter, the governing board of a school district or community college district maintaining a child development facility may enter into agreements with any city, city and county, or other public agency, or with a private foundation, nonprofit corporation, or proprietary child care agency as defined in Section 8254 for the furnishing to, or use by, the governing board in carrying out the provisions of this chapter, of property, facilities, personnel, supplies, equipment and other necessary items and such city, county, city and county, other public agency, or private foundation or nonprofit corporation, is authorized to enter into such agreements.

8328. The governing board of any school district or community college district or the county superintendent of schools shall establish in the county treasury a fund to be known as the "child development fund" into which shall be paid all funds received by the district or the county for, or from the operation of, child development services under this division. The costs incurred in the maintenance and operation of child development services shall be paid from the fund, with accounting to reflect specific funding sources.

No other funds of a district derived from the receipt of district taxes or derived from moneys apportioned to the district for the support of schools thereof, except state moneys appropriated for the support of child development services, fees, and federal funds, may be expended for, or in connection with child development services.

8329. The governing board of any school district or community college district maintaining a children's center program may include in its budget the amount necessary to carry out its program pursuant to this chapter and the board of supervisors shall levy a district tax or a county tax necessary to raise such amount. The tax shall be in addition to any other district tax or county tax authorized by law to be levied.

The revenue derived from taxes levied pursuant to this section may be used to purchase real property and fixtures, to make alterations or additions to existing buildings, and to purchase furniture, apparatus or equipment for children's center facilities maintained by the taxing district. As used in this section, "purchase" includes the acquisition of property under a lease-purchase agreement.

8330. The county superintendent of schools maintaining a children's center program may include in its budget the amount necessary to carry out its program pursuant to this chapter. The county board of supervisors shall levy a county tax necessary to raise such amount in only those school districts, or community college districts the governing board of which has entered into a contract with the county superintendent of schools for the maintenance of a children's center program pursuant to Section 5321. Such tax shall be at a rate not to exceed ten cents (\$.10) per one hundred dollars

(\$100) of assessed valuation and shall be in addition to any other county tax authorized by law to be collected.

#### Article 5. Children's Centers, Qualifications

8360. The governing board of a school district or community college district shall employ in a children's center only such persons who hold permits issued by the Commission for Teacher Preparation and Licensing. Any person holding a teaching credential issued by the State Board of Education or commission is deemed to hold a regular children's center permit that will authorize supervision and instruction of children or supervision of a children's program. The filing with the county superintendent of schools of a regulation of a governing board or a public health agency requiring a physical examination of persons employed in centers shall be deemed to be the issuance of a valid permit except for persons employed in positions pertaining to the supervision and instruction of children or supervision of a program. Each person employed by the governing board of a district for a position requiring a permit shall, not later than 95 days after the date fixed by the governing board of the district for the commencement of his service, file with the county superintendent of schools a valid permit issued on or before such date, authorizing him to serve in a position for which he was employed, and must, not later than 95 days after the renewal thereof, file the renewed permit in the same manner.

8361. Notwithstanding any other provision of law, a high school student or any other adult shall be selected by the governing board of a school district or a community college district or a county superintendent of schools to serve as nonteaching personnel as provided in Section 8242 to perform noninstructional work. A career ladder shall be utilized in the employment and promotion of such noninstructional personnel. Each such person shall have had a health examination made within the 12-month period preceding the date of employment. Each person shall also submit duplicate personal identification cards upon which shall appear legible fingerprints and a personal description of the applicant.

8362. The same fee as that prescribed for a credential provided in Section 44235 or 87272 shall be charged for either the issuance or renewal of each children's center permit authorizing service in the supervision and instruction of children in the children's centers or authorizing service as a supervisor in a program.

8363. Children's center permits issued to persons employed in positions pertaining to the supervision and instruction of children or supervision of a children's center program may consist of two types, regular and provisional. Requirements for each type of permit shall be prescribed by the Commission for Teacher Preparation and Licensing.

8363.5. A special child development permit shall be issued to any person employed as a supervisor, head teacher, or teacher by an

agency conducting a child care and development program under contract with a county who did not meet the requirements for an emergency instructional permit authorizing service in children's centers or a supervisor's permit with postponement of requirements authorizing service in a children's center in effect on October 15, 1974. A special child development permit issued pursuant to this section shall be valid for 36 months after its date of issuance. Within the 36-month period following the date of issuance of such a permit:

(a) A person employed as a head teacher or teacher who has completed 30 semester hours of coursework taken in an approved institution, including 12 semester hours of coursework in subject fields related to early childhood education, shall be issued an emergency instructional permit authorizing service in a children's center and be subject to the term and renewal regulations in effect on October 15, 1974.

(b) A person employed as a supervisor who has obtained a bachelor's degree from an approved institution and completed at least 12 semester hours of coursework in subject field related to early childhood education shall be issued a supervision permit with postponement of requirements authorizing service in children's centers and be subject to the term and renewal regulations in effect on October 15, 1974.

It is the intention of the Legislature that this section be liberally interpreted to insure that those experienced and qualified persons employed in county contract day care centers prior to July 1, 1974, maintain their positions and be given ample opportunity to upgrade their skills to meet revised educational standards.

8364. Service under a provisional permit shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a children's center. Such persons employed on the effective date of Chapter 1717 of the Statutes of 1965 and who have been employed for three consecutive years prior to the effective date of this legislation shall be deemed to have met the requirements for a regular permit and shall not be subject to the requirements of a provisional permit.

8365. Each county or city and county board of education or community colleges board may issue temporary certificates for the purpose of authorizing salary payments to children's center employees whose children's center permit applications are being processed. The applicant for such a temporary certificate shall make a statement under oath that he has duly filed his application for a permit together with the required fee and that to the best of his knowledge no reason exists why he should not be issued a permit. Such certificate shall be valid for not more than 90 schooldays and only until the permit originally requested is either issued or denied by the Commission for Teacher Preparation and Licensing.

8366. Each person employed by a school district or community college district in a position requiring a children's center permit for the supervision and instruction of children, or for service as a

physician, dentist, or nurse, or in the supervision of the children's center program, shall be deemed to be employed in a position requiring certification qualifications.

Each other person employed by a district in a children's center under the provisions of this division shall be deemed for all purposes, including retirement, to be a person employed by the school district or community college district in a position not requiring certification qualifications.

The provisions of Section 45053, 45054, 87826, or 87827 of the Education Code, as enacted by the Legislature at its 1959 Regular Session, shall not apply to employees in children's centers.

A district may lay off an employee required to have such a permit at any time during the school year for lack of work or lack of funds or may provide for his employment for not to exceed 90 days in any one school year on an intermittent basis which shall not be deemed probationary service. The order of layoff shall be determined by length of service. The employee who has served the shortest time shall be laid off first, except that no permanent employee shall be laid off ahead of a probationary employee. A permanent employee who has been laid off shall hold reinstatement rights for a period of 39 months from the date of layoff.

Service performed prior to the effective date of Chapter 2 of the Statutes of 1959 shall not be included in computing the service required as a prerequisite for attainment of, or eligibility to, classification as a permanent children's center employee.

A person who is employed by a district as a probationary employee in a position requiring a children's center permit for the supervision and instruction of children, or for service as a physician, dentist, or nurse, or in the supervision of the children's program and who has served in such a position for three complete consecutive school years as defined in Sections 44908 or 87468 and 44975 or 87776 of the Education Code, immediately prior to the effective date of Chapter 2 of the Statutes of 1959 may be dismissed only in accordance with the provision of Section 44949 or 87740.

Other persons who are employed as probationary employees in positions requiring such permits on or after the effective date of Chapter 2 of the Statutes of 1959 may be dismissed in accordance with the provisions of Section 44949 or 87740.

8367. Any city, county, or city and county charter provision to the contrary notwithstanding, each person employed by a school district or community college district on July 1, 1955, and each person employed by a school district or community college district on September 11, 1957, who was theretofore excluded, solely by reason of the provisions of the predecessor of Section 16766 in effect prior to July 1, 1955, or who was therefore excluded solely by reason of the provisions of the predecessor of this section prior to September 11, 1957, from membership in any retirement system in which the district participates or to which it contributes for the purpose of providing retirement rights and benefits for employees of the district

not employed in a status requisite for membership in the State Teachers' Retirement System, shall become a member of the retirement system from which he was excluded, on July 1, 1955, or on September 11, 1957, if theretofore excluded solely by reason of the provisions of the predecessor of this section in effect prior to that date. Every such member shall be entitled to credit for service in children's centers rendered prior to July 1, 1955, or prior to September 11, 1957, if theretofore excluded, and before he became a member of the system, in the same manner as if he had not theretofore been excluded from membership in the retirement system, except that he shall not be required to make any contributions to the retirement system in respect to such service rendered prior to his membership, and all contributions necessary to provide benefits on account of such service shall be paid to the retirement system by the school district by which the member is employed. For the purpose of computing benefits for services rendered prior to July 1, 1955, as provided in this section, the average monthly salary earned by such employee in the fiscal year 1954-55 shall be used and for the purpose of computing benefits for service rendered between July 1, 1955, and September 11, 1957, for members receiving credit for service between those dates under the provisions of the predecessor of this section as amended by Chapter 1238 of the Statutes of 1957, the average monthly salary earned by such employees in the fiscal year 1956-57 shall be used.

Notwithstanding any other provisions of this section, for the purpose of computing benefits for any person retired on and after January 1, 1958, for services rendered prior to July 1, 1955, as provided in this section, and for the purpose of computing benefits for services rendered between July 1, 1955, and September 11, 1957, for members receiving credit for service between those dates under the provisions of this section, the "final compensation" of such person shall be computed in the same manner as for other employees who are included in the same retirement system and in the same class of retirement system members and who are not affected by this section. The amendment to this section enacted at the 1963 session shall be applied to increase the allowances, payable subsequent to October 1, 1963, in respect to those members who retired on or after July 1, 1955.

Notwithstanding any other provision of this section no increased allowance shall be paid, as authorized by this section, to any person who has retired between July 1, 1955, and October 1, 1963, unless the person to whom the increase would otherwise be payable mails written application for the increase to the appropriate retirement system prior to April 1, 1964.

8368. Any person who is employed in a child care center on October 1, 1965, and who was brought into membership in a retirement system on October 1, 1963, notwithstanding his prior election pursuant to Section 8367 or the predecessor of such section 8367 as it read prior to October 1, 1963, not to be a member of such

system, shall have the same rights under such system with respect to his service in child care centers as he would have had under Section 8367 or the predecessor of such section had he elected thereunder to be a member of such system.

8369. Every employee of a children's center who before his employment in such center was employed by the district maintaining such center in a position entitling him to membership in, and who was a member of, the retirement system maintained by such district, and if such employee's contributions to such retirement system were returned to him when he was employed in the children's center, such employee shall have the right to elect, by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make such election is mailed by such system, either to the member's latest address on file in the office of such system, or to the office of the governing board of such district or districts, and prior to the date of retirement, to contribute to such system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his accumulated contributions, including interest, transferred as required in paragraph (1) of subdivision (b) of Section 24810, will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him in such plan, if he had never had his contributions returned to him. Such employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to such system, beginning with the date of transfer, at the rate of interest currently used from time to time under the system. If such employee elects to make, and makes, such contributions and pays such interest, but not otherwise, he shall receive credit under such employees' system, as state service, for all prior service rendered while he was not a member of such plan.

8370. The Commission for Teacher Preparation and Licensing shall establish standards for the issuance of the permits herein provided for. Such standards may be changed from time to time, but changes therein shall not affect then valid permits issued to persons.

#### Article 6. State Support

8380. The maximum reimbursement level for child-hour cost within a child development program for children age two years or over shall be one dollar and five cents (\$1.05), or the actual program costs, whichever is less, minus parent fees. For children under two years of age in child development programs, the maximum reimbursement level shall be one dollar and twenty-five cents (\$1.25), or actual program costs, whichever is less, minus parent fees. Care of children under two years of age is not authorized where the local public health agency has certified that the facilities and services

are such as to endanger the health of the infant.

(a) For development centers for handicapped minors, the Superintendent of Public Instruction shall apportion state funds as provided in Section 6880.20.

(b) The amount apportioned to each applicant or operating agency shall be the agency's cost, as defined within Section 8209, or the maximum reimbursement level, whichever is less.

8381. The State Department of Education is hereby authorized to accept funds from the government of the United States and to apportion them to the governing board of such school districts, community college districts, or county superintendent of schools or other public or private agencies as conduct child development programs which are hereby authorized to accept such funds or funds from any other source for any of the purposes of this chapter and all such funds may be accepted subject to such conditions as will further the purposes of this division.

8382. Any money appropriated to be apportioned by the Department of Education, for the purposes of this chapter, to school districts, community college districts, or county superintendent of schools or other public or private agencies maintaining child development programs pursuant to this chapter and to the governing authorities of state institutions maintaining child development programs, shall be apportioned to such districts, county and governing authorities solely in accordance with the provisions of this chapter.

State allocations or apportionments shall be paid to school districts, community college districts, or county superintendent of schools or other public or private agencies on a monthly basis by the Superintendent of Public Instruction.

8383. Children regularly enrolled in a children's center who are absent on account of illness or quarantine shall be considered to be in regular attendance for the number of hours per day for which they are enrolled for the purpose of reporting attendance for state apportionments, whenever the school district or community college district certifies that such absence was on account of illness or quarantine and is verified by the district in such manner as the Superintendent of Public Instruction shall require. All attendance shall be recorded and reported in accordance with the requirements of the Superintendent of Public Instruction.

8384. Each county shall, as a minimum, maintain the level of expenditure for child care services provided by the county during the 1970-1971 fiscal year. Funds provided pursuant to this division are to be utilized to expand child development services to children by supplementing, and not supplanting, the county share of expenditures for child care services provided by county funds during the 1970-1971 fiscal year.

**Article 7. Infant Care and Development Services**

8390. The Superintendent of Public Instruction may, with funds appropriated for such purpose, enter into agreements with school districts or community college districts or county superintendents of schools for the establishment and maintenance of programs for the care and development of infants, and the training of students in their roles as parents, as part of the high school program.

8391. The State Board of Education shall adopt rules and regulations for the administration of such programs.

8392. Infant care and development services include, but are not limited to, the following:

(a) Supervision and group care, providing for the physical and emotional needs of the infant in a manner which conveys concern and engenders trust.

(b) Educational stimulation from the earliest development stages onward.

(c) Health screening and treatment.

8393. Services available to parents, in which other students may participate on an elective basis, shall include, but are not limited to, the following:

(a) Providing supervised infant care, designed to facilitate completion of the parents' high school program.

(b) The teaching of parenthood education by staff and trained volunteers.

(c) The teaching of family planning.

(d) The development in student parents, and in other participating students, of reasonable expectations regarding infant behavior in order to minimize parental frustration and consequent child abuse.

8394. In school districts or community college districts maintaining more than one high school, the governing board, after soliciting the opinions of student parents and other interested persons, shall determine the location of the infant care and development center.

Infant care and development centers shall be located within high school buildings or within such proximity to high school buildings as would ensure convenient access by student parents and other students.

8395. In implementing infant care and development programs, the Superintendent of Public Instruction shall give priority to children of families who qualify under federal regulations as former, current, or potential recipients of public assistance, and other low-income individuals.

Federal reimbursement shall be claimed for any child receiving services under this section for whom federal funds are available.

8396. The Department of Education may accept funds from school districts or county superintendents of schools as matching funds to maximize the funds available for the program.

8397. Notwithstanding any other provisions of law, infants whose parent or parents are high school students may attend infant care and development centers while their parents attend high school.

### CHAPTER 3. ADULT EDUCATION

#### Article 1. Legislative Intent

8500. The Legislature finds and declares that adult continuing education is essential to the needs of society in an era of rapid technological, economic, and social change and that all adults in California are entitled to quality publicly supported continuing education opportunities.

It is further the intent of the Legislature to fund adequately adult continuing education.

#### Article 2. Definitions

8510. Unless the context clearly requires otherwise, the definitions set forth in this article govern the construction of this chapter.

8511. "Adult basic education" is education in communication and computational skills to and including the 12th grade level, including English as a second language and citizenship.

8512. "Adult continuing education" is the education of persons enrolled in classes for adults in high school, unified, and community college districts.

8513. "Classes for adults" are classes without a college grade level designation organized primarily for persons 18 years of age or older.

8514. "Course approval" is the process of approval by either the Department of Education or the chancellor's office of the California Community Colleges.

8515. "Graded college classes" are classes which comply with the standards set forth in Sections 55000 to 55002, inclusive, of Title 5 of the California Administrative Code as it read on March 7, 1973.

8516. "Mutual agreement" means an agreement between two or more governing boards of districts.

#### Article 3. Functions of Continuing Education Programs

8530. Adult basic education is the responsibility of high school and unified school districts except in those instances where by mutual agreement the responsibility is assigned to a community college district.

8531. The high school diploma program is the responsibility of the high school and unified school districts, but courses leading to a high school diploma may be offered by a community college district pursuant to a mutual agreement.

8532. Vocational and occupational training and retraining

programs for adults may be made available in high school, unified, and community college districts by mutual agreement.

8533. Adult continuing education, including but not limited to, parent education, consumer education, civic education, education in special fields, and education in the arts and the humanities, may be made available in high school, unified, and community college districts by mutual agreement.

8534. Programs for adults involving 13th and 14th grade level course content are the responsibility of community college districts.

8535. When governing boards agree to transfer an existing program, up to two years shall be allowed for such a transfer in order to permit all legal and contractual obligations to be met and an orderly transfer to be made.

8536. The governing board of every district affected by this chapter shall make all reasonable efforts to reach a mutual agreement when such an agreement is required and shall develop procedures for this purpose.

8537. If a mutual agreement cannot be reached by the district governing boards, the points of disagreement shall be resolved by the State Board of Education and the Board of Governors of the California Community Colleges.

#### CHAPTER 4. ENVIRONMENTAL EDUCATION

##### Article 1. Policy

8700. The Legislature finds and declares that throughout the state and nation, there is a growing public awareness of the serious environmental and resource use problems facing mankind, and that the citizens of the State of California expect the educational institutions of this state to equip students with the knowledge and attitudes necessary to develop solutions to these problems.

8701. The Legislature further finds and declares that an informed public working for the common environmental good through its democratic institutions at all educational and professional levels and among all interested private parties can break the chain of destructive land use, restore land which has been improperly abused, and build balance and beauty into our cities of the future.

8702. The Legislature further finds and declares that an educational program is needed which is designed to build necessary attitudes of stewardship toward the maintenance of the quality of our common environment and to enable all citizens to use wisely, and not destructively, the resources at their disposal.

8703. The Legislature further finds and declares that without appropriate long-term funding, and without effective programs to encourage efforts and innovations at the school district level, and without needed materials and meaningful outdoor study opportunities, conservation education will remain a stepchild in the crowded family of public education.

8704. The Legislature further finds and declares that man has a moral obligation to understand the world in which he lives and to protect, enhance, and make the highest use of the land and resources he holds in trust for future generations, and that the dignity and worth of the individual requires a quality environment in which he can develop the full potentials of his spirit and intellect.

8705. The Legislature further finds and declares that conservation education should be a means of achieving an educational philosophy that will help each student develop a healthy attitude of personal responsibility toward his environment and its resources and provide him with the concepts, the knowledge, and the skills needed to contribute meaningfully to the decisionmaking process on issues involving the environment and its resources.

8706. The Legislature further finds and declares that in all grade levels, environmental facts should be taught as they relate to each other, rather than as isolated bits of information, and that students should become aware of the interrelated nature of living processes, gain understanding of ecological relationships and of the effect of human activities upon these relationships, and become sensitive to the interdependence of man and natural resources.

8707. It is the intent of the Legislature in enacting this chapter to encourage development of educational programs for teachers and students commensurate with the importance of protecting scarce resources and safeguarding the quality of our environment.

## Article 2. Conservation Education Service

8720. There is in the Department of Education the Conservation Education Service.

8721. The Conservation Education Service shall encourage the development of educational opportunities specifically related to the conservation, the interpretation, and the use of the natural resources of the State of California, including, but not limited to, the development of nature centers, the development of conservation and wildlife education camps, and the development of the educational curriculum in relation to the conservation of natural resources and factors affecting environmental quality.

8722. The Conservation Education Service shall have the following additional powers and duties:

(1) To assist school districts, community college districts, and county superintendents of schools in preparing teachers to present concepts of conservation, the effects of pollution and major land alterations on ecological systems, and the factors affecting the quality of the environment.

(2) To cooperate with and assist community colleges, state colleges, and the University of California in the development of preservice programs designed to prepare teachers to present concepts and facts relating to conservation, the effects of pollution and major land alterations on ecological systems, and factors

affecting the quality of the environment.

(3) To assist school districts, community college districts, and county superintendents of schools in the development or acquisition, or both, of materials relating to wise use of resources and environmental issues.

(4) To assist districts in the development of educational curriculum and educational opportunities for students, relating to the conservation of resources, factors affecting ecological systems and the quality of man's environment. Such opportunities may include but shall not be limited to, the development of outdoor education programs, nature centers, conservation and wildlife education camps, and participation in field trips.

(5) To establish and maintain a central library and repository for conservation education materials pursuant to Article 3 (commencing with Section 8730) of this chapter.

(6) To review and to evaluate each application for a grant to, or a contract with, institutions of higher education, state and local education agencies, regional educational research organizations, and other public and private agencies, organizations and institutions (including libraries and museums) under the terms of the Federal Environmental Education Act (Public Law 91-516), to support research, demonstration, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance, except that no grant can be made other than to a nonprofit agency, organization or institution.

8723. The Conservation Education Service shall have such other powers and duties as shall be vested in it by law.

### Article 3. Conservation Education Library

8730. There is in the Department of Education a Central Library and Repository for conservation education materials. Such materials may be developed by private conservation groups, by industry, and by professional, scientific, and governmental sources.

8731. The purpose of the library shall be to serve as a master source of materials for the Conservation Education Service, public school districts, county superintendents of schools, and any regional conservation education centers which may be established.

8732. The department shall, in establishing the library, explore new methods in data processing, new library procedures, and new means for distributing materials to local school districts, county superintendents of schools, and any regional conservation education centers which may be established.

8733. The library shall thoroughly evaluate new materials for validity, pertinence, objectivity, and usefulness, and shall advise the state board in the adoption of textbooks in regard to meeting the requirements for conservation education.

8734. The Superintendent of Public Instruction, upon the recommendation of the Conservation Education Service, is

authorized to make planning and implementation grants to individual school districts, or groups of school districts, unified school districts, county superintendents of schools, the University of California, the state universities and colleges, and the community colleges to assist such entities in the development of programs and curriculum in conservation education.

#### Article 4. Grants for Conservation Education

8750. The governing board of any school district, a county superintendent of schools, the governing board of any community college district, and any regional conservation education center which may be established may apply to the Conservation Education Service for planning and implementation grants for purposes of conservation education.

8751. In applying for grants pursuant to Section 8750, the governing board of any school district, a county superintendent of schools, the governing board of any community college district, and regional conservation centers shall assign priority to programs of in-service training in conservation education for teachers through cooperation with appropriate community, state, and federal agencies and university and college teacher education programs.

8752. Public universities and colleges maintaining teacher education programs may apply to the Conservation Education Service for grants to support special programs designed to provide preservice training for teachers in environmental control and the wise use of resources.

8753. State and local agencies, including cities, counties, regional boards and commissions, and special districts may apply to the Conservation Education Service for grants for programs to enhance conservation education in the public schools.

8754. The Superintendent of Public Instruction, upon the recommendation of the Conservation Education Service, is authorized to make grants pursuant to this article. Grants may also be made for the development of materials for use in the public schools, for support of education programs, and for special assistance to school districts, any regional conservation education centers which may be established, or county superintendents of schools in conjunction with approved programs.

#### Article 5. Outdoor Science, Conservation, and Forestry

8760. The governing board of any school district or community college district may:

(a) Conduct programs and classes in outdoor science education and conservation education within or without the boundaries of the district and for that purpose employ instructors, supervisors, and other personnel and provide necessary equipment and supplies.

(b) Acquire and maintain real or personal property needed for

outdoor science education and conservation education programs and classes either within or without the boundaries of the district either by purchase, rental, lease, gift, or other means in the same manner as if the property were within the boundaries of the school district or community college district.

(c) Contract with the United States, the State of California, any city, county, city and county or school district or community college district therein, or any combination thereof for the joint operation and maintenance of such programs and classes in outdoor science education and conservation education or for assistance in their operation and maintenance.

(d) Transport or arrange transportation of pupils, instructors, supervisors or other personnel to or from places where such programs and classes are being conducted, whether within or without the district; provided, such transportation is within the state.

8761. Notwithstanding any other provision of this code, whenever an outdoor science program involves studies in marine science, the governing board of any school district or community college district or a county superintendent of schools may transport, or arrange transportation of, pupils, instructors, supervisors, or other personnel aboard U.S. Coast Guard approved vessels in the waters of the Pacific Ocean for distances not to exceed five miles westerly of any offshore island which is a part of the State of California.

8762. The governing board of any school district or community college district may:

(a) Conduct courses in forestry, and for that purpose employ instructors and supervisors of classes, and acquire necessary equipment.

(b) Acquire forest lands outside the boundary of the district by lease for a period not exceeding five years, or purchase or sell such lands in the same manner as lands within the boundary of the district are purchased or sold.

(c) Afforest and reforest, and plant trees, shrubs, and vines on such lands; or upon any public lands which may be placed at its disposal, and enter into contracts and agreements with the government of the United States, the state, or any political subdivision thereof for such purpose.

(d) Transport pupils, instructors, or supervisors of classes to or from classes or places where such work is being done, whether within or without the district, in the same manner and subject to the same limitations as in transporting pupils to and from school.

8763. The county superintendent of schools may, with the approval of the county board of education, enter into agreements with the governing board of one or more school districts or community college districts, to provide programs and classes in outdoor science education and conservation education for pupils in the district. Except as otherwise provided in this article, the agreement shall provide for the payment by the district of the actual cost of providing such programs or classes. The county

superintendent of schools shall transfer from the funds of the district to the county school service fund the amounts set forth in the agreement.

8764. The school district, or community college district, or districts entering into such agreements with the county superintendent of schools may agree to make capital outlay expenditures, as well as pay for the other costs of the program. Title to all property acquired by such capital outlay expenditures shall be vested in the office of the county superintendent of schools, and the participating school districts shall have no interest in such property, nor in the proceeds of any sale, lease, exchange, or other disposition of such property, unless the parties otherwise provide in the agreement which authorizes the acquisition of such property.

8765. Except as otherwise provided, all of the powers and duties authorized for governing boards of school districts or community college districts, by Section 8760 are powers and duties of the county superintendent of schools whenever, pursuant to this article, he provides programs and classes in outdoor science education and conservation education.

8766. The county superintendent of schools may, with the approval of the county board of education, acquire by gift and maintain real or personal property needed for such programs and classes with title thereto vested in the office of the county superintendent of schools. The school districts or community college districts participating in such programs and classes shall not be required to reimburse the county superintendent of schools for use of real and personal property which is acquired by gift.

8767. The county superintendent of schools may, with the approval of the county board of education, provide the coordination services authorized by Section 1703 in connection with programs and classes in outdoor science education and conservation education and the participating districts shall not be required to reimburse the county superintendent for the cost of such coordination services.

8768. Any such agreement between the county superintendent of schools and school districts or community college districts may provide for the purchase or lease of any real property necessary to conduct classes in outdoor science education and conservation education. If real property is purchased pursuant to such an agreement, title to such real property shall be vested in the office of the county superintendent of schools and the participating school districts and community college districts shall have no interest in such property, nor in the proceeds of any sale, lease, exchange, or other disposition of such property, unless the parties otherwise provide in the agreement which authorizes the acquisition of such property.

8769. The county superintendent of schools may, with the approval of the county board of education, lease any real or personal property for the purpose of care, teaching and training of physically handicapped or mentally retarded children at such time as the

property is not required for outdoor science education and conservation education, upon such terms and conditions as are agreed upon.

8770. The county superintendent of schools may, with the approval of the county board of education, convey any real property, title to which is vested in the office of the county superintendent of schools, to the United States of America in exchange for other real property of comparable value, upon such terms and conditions as are agreed upon.

8771. The county superintendent of schools may, with the approval of the county board of education, sell, lease, exchange, or otherwise dispose of real or personal property, title to which is vested in his office, pursuant to the same procedures as are established by law for the sale, lease, exchange, or other disposition of real or personal property by a school district or community college district. Unless otherwise provided in the agreement which authorized the purchase of such real or personal property, the proceeds of any such sale, lease, exchange, or other disposition of real or personal property shall be vested in the office of the county superintendent of schools.

8772. All proceeds from the sale, lease, exchange, or other disposition of real or personal property received by the county superintendent of schools pursuant to the provisions of this article shall be used for the purpose of acquiring other real or personal property for use in connection with programs and classes in outdoor science education and conservation education or to pay the cost of conducting such programs and classes. The school districts and community college districts participating in such programs and classes shall not be required to reimburse the county superintendent of schools for use of the real or personal property acquired with such funds nor shall they be required to reimburse the county superintendent of schools for any of the costs of conducting such programs and classes which are paid by the county superintendent of schools out of such funds.

8773. If during a period of five consecutive school years, no programs and classes in outdoor science education and conservation education are conducted by the county superintendent of schools pursuant to this article, all real and personal property, title to which is vested in the county superintendent of schools, and all proceeds from the sale, lease, exchange, or other disposition of such real and personal property, shall become part of the county school service fund and may be used for any purpose authorized by the laws applicable to the fund, unless the parties otherwise provide in the agreement which authorizes the acquisition of such property.

**PART 7. JOINT PROGRAMS, SERVICES, AND POWERS  
(COUNTIES, SCHOOL DISTRICTS, AND HIGHER  
EDUCATION)**

**CHAPTER 1. EXCHANGE OF TEACHING PERSONNEL**

**Article 1. Schools—California State University and Colleges**

10000. Notwithstanding any other provision of law, the Trustees of the California State University and Colleges and any school district or community college district may enter into an agreement for the exchange of personnel between a university or college and the district.

Nothing in this chapter shall be construed to limit the present authority of the parties, which exists by law, to participate in other agreements concerning the exchange, transfer, or temporary assignment of personnel.

10001. An agreement authorized by Section 10000 shall provide that an employee of the California State University and Colleges engaged in teacher training may assume the duties of one of the certificated employees of the district engaged in classroom teaching, and that the certificated employee of the district may assume the duties of the state university or college employee engaged in teacher training.

10002. The agreement may be entered into for a term of one semester, one school year, or such other reasonable duration as may be agreed upon by the trustees and the school district or the community college district.

10003. During such time as an employee has assumed duties in another entity, pursuant to this chapter, he shall continue to be an employee of the California State University and Colleges, or school district, or community college district as the case may be, for all purposes, including, but not limited to, salary, membership in a retirement system, tenure rights, and all other incidents of employment.

**Article 2. Teacher Training Exchange**

10010. The governing board of any school district, or community college district, a county board of education, or the State Department of Education may execute a contract with any California teacher-training institution whereby certificated personnel of the school district, county, or the State Department of Education may be assigned to the teacher-training institution for full-time or part-time duty for a period not to exceed one year.

Any teacher-training institution in California may execute a contract with the governing board of any school district, or community college district, a county board of education, or the State Board of Education whereby certificated personnel of the institution

may be assigned to school districts, community college districts, county boards of education, or the State Department of Education for full-time or part-time duty for a period not to exceed one year.

Any such contract shall provide for the payment, by the entity to which a person is assigned to the employer, of a sum equivalent to the salary and other employment costs of any such employee. In place of such payment, the contract may provide for the exchange of certificated personnel between the district, county, or State Department of Education and the teacher-training institution. Any such employee shall retain his status as an employee of the school district, community college district, county, State Department of Education, or teacher-training institution from which he is assigned in all respects during the period of such assignment.

### Article 3. Teacher Aides

10020. Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher-assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals and routinely report its findings.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate and graduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.

A certificate to serve as a temporary teacher-assistant shall be issued, by the county superintendent of schools of the county in which service is to be rendered, to the holder of a recommendation from an accredited college, university, or community college. The certificate shall authorize the holder to serve as a teacher-assistant. No such certificate shall be granted for a period exceeding two years.

The teacher-assistant certificate shall not be used in lieu of a teaching credential. The holder of such a certificate shall work under the immediate supervision of a credentialed classroom teacher to whom the teacher-assistant is assigned, who shall be present in the classroom while the teacher-assistant is performing his classroom duties or who shall be available at all times to provide guidance and direction to the teacher-assistant.

## CHAPTER 2. DEMONSTRATION PROGRAM

10100. The Legislature recognizes that there are several hundred thousand California schoolchildren whose primary languages are not English. These children have shown their ability to perform in bilingual-crosscultural classes and large amounts of money are now available to expand the number of bilingual classrooms. The

Legislature recognizes, furthermore, that there is an insufficient number of qualified bilingual-bicultural teachers to staff present projects, and that many more such teachers will be needed as the new projects are established. It is, therefore, the intent of this chapter to establish programs designed to rapidly produce teachers who are fully bilingual, who are sensitive to cultural differences and knowledgeable about the origins of such differences, who can serve as models for these children to emulate, and who will qualify for credentials in bilingual-crosscultural education. Bilingual-bicultural teacher aides and the presently underutilized certificated teacher force shall be primary manpower sources for this program.

10101. The Commission for Teacher Preparation and Licensing shall develop, on or before January 15th of each year, a status report on local, state, and federally funded bilingual-crosscultural teacher preparation programs. Such report shall be made to the Legislature not later than February 15th of each year. The Board of Governors of the California Community Colleges, the Trustees of the California State University and Colleges, and the Regents of the University of California shall, by November 15 of each year, report to the Commission for Teacher Preparation and Licensing with reference to their programs in bilingual-crosscultural teacher training. Such report shall include information on special classes or programs leading to a bilingual-crosscultural teaching credential, preservice or in-service programs offered by these institutions to bilingual-bicultural teachers or teacher aides, and the number of persons enrolled in such programs.

10102. The Commission for Teacher Preparation and Licensing shall design career ladder programs which will allow bilingual teacher aides to become fully certificated bilingual teachers. This program shall provide grants for tuition and living expenses to needy applicants for part-time or full-time attendance at any public institution of higher education in California. Up to two years of credit toward credential requirements may be allowed for experience within the classroom as a teacher aide. The career ladder programs shall be adopted by regulations promulgated by the Commission for Teacher Preparation and Licensing and subject to Section 44232.

10103. The Commission for Teacher Preparation and Licensing shall, with the assistance of a representative appointed by the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the Chancellor of the California State University and Colleges, the President of the University of California, and with five presently practicing teachers appointed by the Superintendent of Public Instruction, design a comprehensive language and culture curriculum for teachers who are already certificated. Such curriculum shall be designed to enable teachers to qualify for the bilingual-crosscultural specialist credential. Initial programs to assist on the development of this shall be offered at not less than five public institutions of higher education in California, beginning not later than September 1, 1974.

10104. There is hereby established a Bilingual Teacher Development Grant Program. The Scholarship and Loan Commission shall administer the Bilingual Teacher Development Grant Program in accordance with general policies established by the Commission for Teacher Preparation and Licensing. Candidates shall be evaluated according to criteria developed by the Commission for Teacher Preparation and Licensing. Not less than 75 percent of the funds available for grants shall be awarded to bilingual aides participating in the career ladder program prescribed in Section 10102. Remaining funds shall be available to needy teachers who are enrolled in the curriculum prescribed in Section 10103.

10105. The Board of Governors of the California Community Colleges, the Trustees of the California State University and Colleges, and the Regents of the University of California shall, within their respective systems, establish a policy of recruitment and appointment of professors of bilingual-crosscultural education by June 1, 1974.

10106. The Department of Education shall serve as a clearinghouse for bilingual-bicultural teaching personnel, and shall, upon request, assist school districts in the recruitment of such personnel.

The Department of Education shall prepare a five-year projection on the needs for bilingual-crosscultural teaching personnel, which shall be submitted to the Legislature by September 1, 1974, and may be updated annually thereafter.

10107. This chapter shall be operative until July 1, 1979, and as of that date is repealed.

### CHAPTER 3. FAMILY LIFE EDUCATION PROGRAMS

10200. The Legislature hereby finds and declares that teachers who provide instruction in family life education should have professional preparation in this subject area and that teacher training courses and in-service training programs in family life education should be provided by appropriate teacher training institutions.

10201. It is the intent of the Legislature that the University of California and the California State University and Colleges shall, to the extent feasible, and, in cooperation with the Department of Education, and the board of governors undertake to develop and expand programs in family life education as part of their secondary and elementary teacher education curriculum.

10202. The Department of Education and the board of governors shall, to the extent feasible, cooperate with teacher education institutions and with local school districts and community college districts in the development of effective in-service teacher training programs in family life education for teachers who may provide family life education instruction at either the elementary or secondary school level or in community colleges.

10203. The department and board of governors shall utilize, for

the purposes specified in this chapter, all federal funds which may be available therefor.

## CHAPTER 4. INSTITUTES

### Article 1. Certificated Employees

10300. The superintendent of schools of every county in which there are 20 or more school districts, and of every city and county, and of every city school district governed by a city board of education and employing 70 or more teachers, may hold an annual teachers' institute in each year.

10301. In any county in which there are less than 20 school districts, the county superintendent of schools may hold an annual teachers' institute.

10302. The superintendents of schools of counties, or cities and counties, or city school districts may unite for the purpose of holding a joint teachers' institute, and shall direct the teachers of their respective counties, cities and counties, or city school districts to attend the joint teachers' institute in lieu of all or a designated part of the annual teachers' institute of the county, city and county, or city school district. Attendance shall be under the same conditions and compensations as provided for the annual teachers' institute of the county, city and county, or city school district.

10303. In lieu of an annual teachers' institute, the superintendent of schools of any county or of any school district employing 10 or more teachers, may hold during the school year, at places in the county, whether located within or outside the school district, chosen by the superintendent for their convenience and accessibility to teachers and patrons of the schools, local day or evening institutes or teachers' in-service meetings which shall provide at each of the chosen places, not less than the number of hours of institute work or teachers' in-service meetings as may be determined by the superintendent.

10304. The annual teachers' institute may be combined with local institutes, by holding an annual teachers' institute in the county, or city and county, or city school district, or other school district employing 100 or more teachers, and also holding during the school year local day or evening teachers' institutes or teachers' in-service meetings at convenient places in the county, or city and county, or city school district, the whole to provide not less than the number of hours of institute work as may be determined by the superintendent.

10305. The superintendent of schools of each county, city and county, or city school district shall preside over teachers' institutes held therein, and shall secure the attendance of lecturers competent to instruct in the art of teaching.

10306. Each superintendent of schools holding an institute, whether separately or as part of a joint institute, shall report to the governing board of each district under his jurisdiction the names of

all teachers of the district failing to attend any session of the institute.

10307. Every teacher employed in the schools of the county, city and county, or city school district holding an institute shall attend the institute and participate in its proceedings.

10308. Every teacher shall be paid his regular salary for the time covered by his attendance upon an institute. He shall also receive his actual and necessary traveling expenses incurred in attending the institute, not exceeding twenty-five cents (\$.25) a mile, excluding the first six miles, one way from the place of his employment to the place of the institute or thirty-five dollars (\$35), whichever is the lesser amount. Claims for traveling expenses are payable from the same fund as teachers' salaries upon verification and approval by the county superintendent of schools. When the institute is held during the time that teachers are employed in teaching, their pay shall not be diminished by reason of their attendance.

10309. The superintendent of any school district, community college district, or county holding an annual institute may, in his discretion and for good reason, authorize any teacher or instructor of the district or county, in lieu of attending one or more days of the institute held by him, to attend an institute held by the superintendent of schools of another district or county, or to attend an educational meeting held by the State Department of Education or the Board of Governors of the California Community Colleges, as the case may be, or by a recognized institution or organization in the same or another district or county, for an equivalent period.

The period of the attendance of a teacher upon an institute or meeting under the provisions of this section shall be equivalent to attendance for the same period upon the institute he is otherwise required to attend, but shall not constitute attendance upon an institute for the payment of traveling expenses under Section 10308.

10310. The county superintendent, the city and county superintendent, and the district superintendent, and the city superintendent shall each keep an accurate account of the actual expenses incurred by him in holding any teachers' institute or teachers' in-service meetings whether separate or joint.

10311. Each county superintendent of schools shall draw his requisition upon the county auditor, who shall draw his warrants on the county school service fund to pay the expenses of the county institute or teachers' in-service meetings.

10312. Each city and county superintendent shall draw his requisition upon the city and county auditor, who shall draw his warrant upon the funds of the school district or districts within the city and county to pay the expenses of the city and county institute.

10313. Each city superintendent of schools shall present a statement of the expenses incurred by him in holding the city district institute to the governing board of the city school district, which shall pay the expenses from the funds of the school district in the same manner as other claims against the funds of the district are paid.

10314. The expense of a joint teachers' institute shall be borne

proportionately by the counties, city and county, and city school districts participating therein. The amount paid by any county, city and county, or city school district toward the expenses of a joint institute shall not exceed the amount authorized to be expended by the county, city and county, or city school district for a separate annual teachers' institute.

10315. Not more than six hundred dollars (\$600) shall be paid for the expenses of any separate annual teachers' institute held by the superintendent of schools of any county, city and county, or city school district having less than 100 teachers regularly employed in the elementary and secondary schools of the county, city and county, or city school district. Where the number of teachers regularly employed in the elementary and secondary schools of any county, city and county, or city school district exceeds 100 teachers at the time of holding any separate annual teachers' institute, the superintendent of schools may expend money, in addition to six hundred dollars (\$600), at the rate of two dollars (\$2) per teacher for each teacher in excess of 100 teachers regularly employed at the time of holding the separate institute.

10316. Whenever the superintendent of any county, or city and county, or city school district, elects to hold local teachers' institutes, or the combination of annual teachers' institute with a local institute, he may expend money, in addition to the amount provided in Section 10315 for the expenses of any separate annual teachers' institute in his county, or city and county, or city school district at the rate of ten dollars (\$10) per teacher for each teacher regularly employed at the time of holding the first series of local institutes in any school year.

10317. The total expenditures for local institutes shall not at any time in the school year exceed one hundred dollars (\$100) multiplied by the number of local institutes held.

10318. Whenever the superintendent holds the combination of annual institute with local institutes each day of the annual institute shall be considered for purposes of expenditure the same as one series of local institutes.

10319. All expenses of local institutes and of combined annual and local institutes shall be paid in the same manner and from the same funds as are the expenses of separate and of joint institutes.

## Article 2. Classified Employees

10340. The superintendent of schools of every county and of every city and county, and of every city school district governed by a city board of education or community college district may hold at least one annual institute of persons employed in the classified service. The superintendents of schools shall designate the persons to attend the institute.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of

Division 3 of Title 2, or Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3.

10341. The superintendents of school districts or community college districts may unite institutes of classified employees, and may hold institutes of classified employees in the same manner as teachers' institutes. The expenses of such institutes shall be paid in the same manner and from the same funds as are teachers' institutes.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2, or Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3.

#### CHAPTER 5. COOPERATIVE IMPROVEMENT PROGRAMS

10400. It is the intent and purpose of the Legislature in enacting this chapter to encourage local school districts and community college districts to improve their educational systems and to enrich their educational offerings by utilizing, whenever possible and appropriate, resources which exist in the community. Such resources may include, but not be limited to, business, industry, institutions of higher learning, private consulting firms, other school districts, community college districts, the University of California, or the State of California itself. In the implementation of this chapter, particular emphasis is to be placed upon programs oriented toward agriculture, science, business and commerce, vocational education, teacher training, and, with reference to district administration, development of modern budgetary techniques, such as program planning and budgeting.

10401. Upon approval by the State Board of Education, or the Board of Governors of the Community Colleges, as the case may be, local school districts, community college districts, or schools within local districts, may enter into cooperative or contractual arrangements with business, industry, or elements within the community for improvement of the local education program. Such arrangements may include evaluation, planning, cooperation in the operation of educational programs, and use of noncertificated personnel, including the elderly, youth, college students, and other nonprofessionals.

10402. Approval by the State Board of Education or board of governors, as the case may be, of such proposals shall be based upon the recommendation of the State Superintendent of Public Instruction or chancellor, as the case may be.

10403. Nothing in this chapter is intended to modify the law with respect to experimental mathematics and reading programs established under the McAteer Act Chapter 4 (commencing with Section 54400) of Part 29 of Division 4 of Title 2 or is to be construed to authorize school districts or community college districts to contract for services required to be performed by classified school employees.

10404. The Department of Education or the Board of Governors of the Community Colleges, shall select a consultant to assist local districts or schools in the preparation of proposals to be submitted to the board. Such assistance shall include the securing of outside funds, if necessary. The consultant shall also assist the Superintendent of Public Instruction and the chancellor in establishing rules, regulations, and guidelines for proposals of cooperative improvement programs, and to evaluate the progress of such programs once underway.

10405. The Department of Education or board of governors shall encourage and seek out assistance from colleges and universities in order that college and university programs may be functional and effectively integrated with and provide assistance to the public schools.

10406. Planning grants may be made by the department, after approval by the State Board of Education, or by the board of governors for the purposes of developing, submitting, and implementing the initial phases of a cooperative improvement program pursuant to this chapter; provided, that no such grant shall be made for other than actual costs, and no more than fifteen thousand dollars (\$15,000) in such grants may be made in any biennium to any one recipient.

10407. The governing board of a school district, or community college district in its application, may request waiver of the provisions of any section or sections of this code relating to the educational programs or administrative functions described in Section 10400 if such waiver is necessary to establish and operate a program under this chapter. The need for a waiver shall be explained and justified in the application. The Superintendent of Public Instruction, or the Board of Governors of the Community Colleges, as the case may be, with the approval of the State Board of Education, or the Board of Governors of the Community Colleges, as the case may be, may grant, in whole, or in part, any such request.

CHAPTER 6. DATA-PROCESSING CENTERS

Article 1. Regional Data-Processing Centers

10500. The governing board of a school district and a county superintendent of schools may establish and maintain educational data processing centers. Such centers that meet the requirements of Section 10504 for eligible regional educational data processing centers are entitled to financial assistance from the state for the purpose of such centers as provided herein.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

10500. The governing board of a school district or community college district and a county superintendent of schools may establish and maintain educational

data-processing centers. Such centers that meet the requirements of Section 10504 for eligible regional educational data-processing centers are entitled to financial assistance from the state for the purpose of such centers as provided herein.

10501. A regional educational data processing center may consist of any of the following:

(a) One educational data processing center maintained by the governing board of any school district having an average daily attendance of 100,000 or more pupils.

(b) One educational data processing center maintained by the county superintendent of schools that provides data processing services to two or more school districts within or without the county, having a combined average daily attendance of not less than 100,000 nor more than 300,000 pupils.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

10501. A regional educational data-processing center may consist of any of the following:

(a) One educational data-processing center maintained by the governing board of any school district or community college district having an average daily attendance of 100,000 or more pupils.

(b) One educational data-processing center maintained by the county superintendent of schools that provides data-processing services to two or more school districts or community college district, within or without the county, having a combined average daily attendance of not less than 100,000 nor more than 300,000 pupils

10502. The governing board of any school district may contract with any county superintendent of schools for the rendering to the schools of the district of data processing services and may pay for the services out of any funds of the district.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

10502. The governing board of any school district or community college district may contract with any county superintendent of schools for the rendering to the schools of the district of data-processing services and may pay for the services out of any funds of the district

10503. The functions of regional educational data-processing centers shall include the processing and reporting of information relating, among other things, to programs of instruction, school business administration, and pupil personnel data.

10504. An eligible regional educational data-processing center is one that meets the following requirements:

(a) It possesses equipment, personnel and funds sufficient, as determined by regulations of the State Board of Education, or board of Governors as the case may be, to convert and correlate basic source material into data-processing form by use of a basic data system.

(b) It is a regional education data-processing center as defined in Section 10501.

(c) It meets the minimum standards established by the State Board of Education.

10505. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this chapter, including rules and regulations that:

(a) Establish minimum standards entitling regional educational data processing centers to receive an allowance under this chapter.

(b) Prescribe the procedure by which applications for allowance pursuant to this chapter shall be governed.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

10505. The State Board of Education or the board of governors shall adopt rules and regulations necessary to implement the provisions of this chapter, including rules and regulations that:

(a) Establish minimum standards entitling regional educational data-processing centers to receive an allowance under this chapter.

(b) Prescribe the procedure by which applications for allowance pursuant to this chapter shall be governed.

10506. The Superintendent of Public Instruction, upon proper application therefor made by a school district or county superintendent of schools maintaining an eligible regional educational data processing center, shall allow to the applicant the amount specified in this section appropriate to the fiscal year for which the application is made.

(a) The amount of an allowance for which application may be made shall not exceed thirty thousand dollars (\$30,000) for the first, twenty thousand dollars (\$20,000) for the second and ten thousand dollars (\$10,000) for the third, fiscal year for which an allowance is sought.

(b) An allowance shall be made for each of any three fiscal years for which a proper application is made by a school district or county superintendent of schools maintaining an eligible regional educational data processing center.

(c) A school district or county superintendent of schools shall not receive more than one allowance in any fiscal year nor more than three such allowances altogether.

(d) A new application shall precede such allowance.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

10506. The Superintendent of Public Instruction, upon proper application therefor made by a school district or community college district or county superintendent of schools maintaining an eligible regional educational data-processing center, shall allow to the applicant the amount specified in this section appropriate to the fiscal year for which the application is made.

(a) The amount of an allowance for which application may be made shall not exceed thirty thousand dollars (\$30,000) for the first, twenty thousand dollars (\$20,000) for the second and ten thousand dollars (\$10,000) for the third, fiscal year for which an allowance is sought

(b) An allowance shall be made for each of any three fiscal years for which a proper application is made by a school district or community college district or county superintendent of schools maintaining an eligible regional educational data-processing center.

(c) A school district or community college district or county superintendent of schools shall not receive more than one allowance in any fiscal year nor more than

three such allowances altogether.

(d) A new application shall precede such allowance.

10507. The Superintendent of Public Instruction shall make the allowances to school districts and county superintendents of schools pursuant to Section 10506 from any funds which may be provided for such purposes under any program established by or under authority of federal law.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

10507. The Superintendent of Public Instruction shall make the allowances to school districts or community college districts and county superintendents of schools pursuant to Section 10506 from any funds which may be provided for such purposes under any program established by or under authority of federal law.

## Article 2. Independent Data-Processing Centers

10550. This chapter applies to the territory under the jurisdiction of the County Superintendent of Schools of Sacramento County.

For the purpose of this chapter, "participating local educational agency" means:

- (a) The Grant Joint Union High School District.
- (b) The Los Rios Community College District.
- (c) The Sacramento County Superintendent of Schools.
- (d) The Sacramento City Unified School District.
- (e) The San Juan Unified School District.

10551. The independent data-processing center shall be administered by a board composed of one representative of each of the participating local educational agencies and one public member who shall be appointed by a majority of the representatives of the participating local educational agencies.

The public member shall serve for a four-year term and may be reappointed.

10552. The board of the independent data-processing center:

- (a) Shall adopt rules and regulations for its own government.
- (b) Shall determine the location of the center.
- (c) Shall establish and administer the operating budget of the center.
- (d) May contract with public or private agencies for service.
- (e) May contract with participating local educational agencies for services. In such cases, the personnel of the local educational agency shall remain agency employees for all purposes.
- (f) May borrow funds from the participating local educational agencies. Participating local educational agencies may lend funds to the center.
- (g) May order expenditures from the data-processing center account in the county school service fund.
- (h) May employ such staff as the board deems necessary, and determine the compensation thereof.
- (i) May accept gifts and grants from private persons; firms;

foundations; or federal, state, and local government.

10553. The county superintendent of schools shall create in the county school service fund a data-processing center account, expenditures from which may be ordered only by the board of the independent data-processing center.

Balances in the account are not balances of the county school service fund and shall not revert to the State Treasury.

10554. There shall be deposited into the data-processing center account all amounts allocated to the county superintendent of schools pursuant to Section 10555, any payment pursuant to a contract for services with a public or private entity, and any other funds accruing to the center.

10555. From funds appropriated by Section 4 of this act there shall be allocated to the County Superintendent of Schools of Sacramento County the sum of two hundred seventy-five thousand dollars (\$275,000) annually for each of the fiscal years 1975-76 to 1977-78, inclusive. Such funds shall be used exclusively for operation of the independent data-processing center. Immediately upon receipt thereof such funds shall be deposited in the data-processing center account.

Such allocation shall be made by the Department of Education pursuant to an agreement between the department and the county superintendent of schools, the terms and conditions of the agreement having first been approved by the board of the independent data-processing center. The agreement is subject to the approval of the Department of Finance.

The amounts allocated pursuant to this section shall be repaid during the five fiscal years 1978-79 to 1982-83, inclusive, together with interest computed at the same rate as the rate returned by the investment of state funds through the Pooled Money Investment Fund, as determined by the Department of Finance.

Participating local educational agencies shall be obligated for the repayment of funds allocated pursuant to this section. The amount to be repaid by each participating local educational agency shall be determined on the basis of the proportionate usage of the independent data-processing center, as measured by criteria established by unanimous consent of the participating agencies.

In the event the participating agencies do not unanimously agree as to the method of computing the amount of repayment or on criteria to measure proportionate usage, the amount of repayment to be made by each of the participating agencies shall be computed in any reasonable manner determined by the board of the independent data-processing center and approved by the Department of Finance.

The State Controller shall, commencing with fiscal year 1978-79 and in each of the following four fiscal years, deduct the total amount of the annual repayment due from a participating local educational agency by withholding equal amounts from each of the first and second principal apportionments made to such local agencies in each

of the five fiscal years commencing with 1978-79.

10556. Local educational agencies which do not participate in the operation of the center but which contract with the center for services shall pay a pro rata share of the cost of providing such services.

#### CHAPTER 7. CALIFORNIA EDUCATION INFORMATION SYSTEM

10600. It is the intent of the Legislature in enacting this article to make complete, current, and reliable information relating to education available to the Legislature and to all public educational agencies in California at maximum efficiency and economy through statewide compatibility in the development and application of information systems and electronic data-processing techniques insofar as they relate to data required in reports to the Department of Education.

10601. There is in the Department of Education the California Education Information System, hereinafter in this article called "the system." The function of the system is to establish, conduct, and by continuous concern keep up to date a basic, integrated, statewide information system for education.

10602. In establishing, maintaining, and operating the system, the department shall:

(a) Consult and cooperate with school districts, county superintendents, advisory committees on integrated data processing, task forces for implementing the development and utilization of a statewide information system, intergovernmental boards on electronic data processing and state electronic data processing policy committees created by statute or by executive order of the Governor.

(b) Cooperate with the Educational Management and Evaluation Commission in all matters relating to program budgeting.

(c) Maintain the system by incorporating necessary or desirable changes, modifications, and improvements.

(d) Provide sufficient flexibility within the system to allow local and state educational agencies to meet all of their educational information needs.

10603. In establishing and conducting the system, the department may consult and cooperate with public and private agencies and with educators and information specialists at the district, county, regional, state, and national levels.

10604. School districts maintaining kindergarten or any grade of grades 1 through 12, county superintendents of schools, and the department shall:

(a) Cooperate and consult in the joint development, establishment, and conduct of the system.

(b) Coordinate information-processing activities to preclude duplication of the developmental and operational aspects of the system.

(c) Conduct educational information-processing activities in accordance with regulations of the State Board of Education adopted pursuant to this chapter.

10605. The information-processing capabilities of the system shall include, but not be limited to, the following:

(a) Provision of a statewide common data base for educational research and other uses in education.

(b) Interchange of data with other educational institutions, including colleges and universities, and other agencies concerned with information about education.

(c) Machine processing aid to decisionmaking in educational administration and the use of modern management tools.

(d) Reduction of routine clerical activities in educational agencies.

(e) Facilitation of preparation of reports required by state and federal agencies.

(f) Support of functions of the Educational Management and Evaluation Commission.

10606. The department, in its establishment and conduct of the system shall, among other things:

(a) Develop for statewide educational use standards for:

(1) Coding structures.

(2) Common data base.

(3) File layout and design.

(4) Flow charts.

(5) Identification of data items.

(6) Input documentation and formats.

(7) Output report formats, including those required by local, county, state, and federal agencies.

(8) Procedural manuals.

(9) System design.

(10) Terminology.

(11) Other relevant material.

(b) Make available, without charge, to school districts, county superintendents, and other public agencies the system components, described in subdivision (a), as they are completed.

(c) Establish a pilot data-processing center to test systems, components, and procedures, and, when feasible, identify as centers to develop or demonstrate the appropriate use of the system and the system's procedures, those districts, county superintendents, and other public agencies that are successfully using the various components of the system.

(d) Establish safeguards to assure only appropriate access to confidential information.

(e) Disseminate information about the system, and its use and availability, including documentation, and procedural and operations manuals.

(f) Adopt regulations to implement this chapter.

10607. The regulations adopted pursuant to Section 10606 shall,

among other things:

(a) Require that the department and school districts use the system's standard terminology and formats specified in Section 10606 as the basis for all reports and other data specified in this code and related administrative codes.

(b) Provide departmental coordination in order to preclude costly duplication of the developmental and operational aspects of materials, equipment, programming, systems and procedures.

(c) Recognize that wise and appropriate use of automatic data-processing technology need not be restricted by school district or other boundaries.

10608. The system is intended to provide a basic package of services to school districts that will facilitate the gathering of data required for reporting to the state. An annual survey shall be made of school district participation in the system. The results of such surveys shall be annually reported to the Legislature, and the first such report shall be submitted no later than the fifth legislative day of the 1970 Regular Session of the Legislature.

10609. The department may accept federal or other funds for the purpose of financing activities pursuant to this article. School districts and county offices of education may assign to the department funds or other resources which may be identified in their budgets for planning, developing, or coordinating activities related to this article.

10610. The State Board of Education shall make recommendations to the Legislature as the state board deems appropriate concerning appropriate or necessary legislation related to this article.

## CHAPTER 8. ROADS TO SCHOOLHOUSES

10700. As used in this chapter, "school approach" means any highway or portion thereof which:

(a) Runs from a primary or secondary state highway, or from a county highway to a public school building maintained and used as such by the district.

(b) Is not more than one-half mile in length.

(c) Is entirely outside of the boundaries of any city.

10701. The governing board of any school district or community college district may contract with the Division of Highways for the construction, improvement, or maintenance of a school approach which runs from any state primary or secondary highway. The Division of Highways may enter into such contracts.

10702. The governing board of any school district or community college district may contract with the board of supervisors for the construction, improvement, or maintenance of a school approach which runs from any county highway. The board of supervisors may enter into such contracts.

10703. The governing board of any school district or community

college district may construct, improve, and maintain any school approach, and may use the funds of the district for the purpose or for the purpose of carrying out any contract entered into by the district pursuant to this chapter.

**CHAPTER 9. LEASE OF PROPERTY: DEPARTMENT OF  
EDUCATION, UNIVERSITY OF CALIFORNIA, CALIFORNIA STATE  
UNIVERSITY AND COLLEGES**

10800. The governing board of any school district or community college district may, with the approval of the Director of General Services, lease real property owned by the district to the State Department of Education, or the board of governors, as the case may be, to the Trustees of the California State University and Colleges, or to the Regents of the University of California upon such terms and conditions as may be agreed upon. The State Department of Education, or the board of governors, as the case may be, the Trustees of the California State University and Colleges, or the Regents of the University of California may enter into any agreement to lease real property pursuant to this section.

**CHAPTER 10. COMMUNITY RECREATION PROGRAMS**

10900. The purposes of this chapter are:

(a) To promote and preserve the health and general welfare of the people of the state and to cultivate the development of good citizenship by provision for adequate programs of community recreation.

(b) To authorize public corporations or districts having powers to provide recreation, cities, counties, cities and counties, and school districts or community college districts to organize, promote, and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for children and adults of the state.

10901. The following terms, wherever used or referred to in this chapter have the following meanings, respectively, unless a different meaning clearly appears from the context:

(a) "Public authority" means any city of any class, city and county, county of any class, public corporation or district having powers to provide recreation, or school district or community college district in the state.

(b) "Governing body" means, in the case of a city, the city council, municipal council, or common council; in the case of a county or city and county, the board of supervisors; in the case of a public corporation or district, the governing board of the public corporation or district; and in the case of a school district, the governing board of the school district or community college district.

(c) "Recreation" means any activity, voluntarily engaged in, which contributes to the physical, mental, or moral development of

the individual or group participating therein, and includes any activity in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports, and athletics, or any of them, and any informal play incorporating any such activity.

(d) "Community recreation" and "public recreation" mean such recreation as may be engaged in under direct control of a public authority.

(e) "Recreation center" means a place, structure, area, or other facility under the jurisdiction of a governing body of a public authority used for community recreation, whether or not it may be used primarily for other purposes, playgrounds, playing fields or courts, beaches, lakes, rivers, swimming pools, gymnasiums, auditoriums, libraries, parks adjacent to school sites, rooms for arts and crafts, camps, and meetingplaces.

Playgrounds, outdoor playing fields or courts, swimming pools, and camps, with necessary equipment and appurtenances for their operation, under the jurisdiction of a governing board of a public authority used for community recreation shall be considered recreation centers within the meaning of this chapter whether or not they may be used primarily for other purposes.

10902. The governing body of every public authority may (a) organize, promote, and conduct programs of community recreation, (b) establish systems of playgrounds and recreation, and (c) acquire, construct, improve, maintain, and operate recreation centers within or without the territorial limits of the public authority.

No events for which an admission price is charged shall be held pursuant to this chapter, except amateur athletic contests, demonstrations, or exhibits and other educational events.

Nothing in this section shall be construed to authorize the transportation of a school band in school buses for commercial purposes.

10903. Upon the transfer of duties and functions of the county board of supervisors to the county board of education, the county board of supervisors may provide by agreement with the county board of education that the county board of education will perform all or any portion of the duties and functions of the county under this chapter.

10904. A public authority may permit the use of a recreation center or facility by parent cooperative nursery groups on a nonexclusive and nondiscriminatory basis when such use does not unreasonably impair or interfere with the right of the public to use the center or facility. As used in this section, a "parent cooperative nursery group" means a group of parents who (1) are licensed by a state agency; (2) on a nonprofit basis; (3) to provide recreation for their preschool age children; (4) on a nondiscriminatory basis.

10905. The governing body of any public authority may cooperate with the federal government or any department thereof, and the governing bodies of any two or more public authorities may

cooperate with each other or with the federal government or any department thereof to carry out the purposes of this chapter, and to that end may enter into agreements with each other, and may do any and all things necessary or convenient to aid and cooperate in carrying out the purposes of this chapter, or to establish, improve or maintain campgrounds or other recreation facilities under the control of the federal government or any department thereof.

The governing bodies of any two or more public authorities having jurisdiction over any of the same territory or over contiguous territories may jointly establish a system or systems of recreation, and may jointly do any act which either is authorized to do under Section 10903. Nothing in this chapter shall be construed to prohibit any joint or cooperative action authorized by this section.

10906. The governing board of any union high school district located in a county of the third class which had an average daily attendance during the 1971-72 school year of between 17,500 and 18,500, and which, during the 1971-72 school year, had a modified assessed valuation per pupil of between twenty-one thousand dollars (\$21,000) and twenty-three thousand dollars (\$23,000), may cooperate with community nonprofit associations and corporations to carry out the purposes of this chapter including the acquisition, construction, improvement, maintenance, and operation of recreation centers within the territorial limits of and under the control of the governing board, and may enter into agreements with such nonprofit associations and corporations to share the costs of acquiring, constructing, improving, maintaining, and operating such recreation centers located on the property of the school district, provided that the board does not agree to contribute more than one-half the total cost of any one project.

10907. The governing body of any public authority other than a school district may designate any already existing board, officer, or employee of the public authority to exercise the powers granted by this chapter to carry out the purposes of this chapter, or may provide for the appointment of a board of recreation commissioners to exercise such powers. A school district or community college district may appoint one or more members of the board of trustees, officers or employees, to represent the district on a board of recreation commissioners.

10908. The board of recreation commissioners shall consist of either five members or seven members, as determined by the governing body or bodies providing for its appointment, who shall serve with or without compensation at the discretion of the governing body. If compensation is authorized by the governing body it shall not exceed twenty-five dollars (\$25) per meeting for not more than one meeting of the commission in any one calendar month. The governing body may provide that the members of the commission shall receive their actual and necessary traveling expenses to and from the place of meeting of the commission and while traveling in connection with the business of the commission.

10909. The board of recreation commissioners in each public authority, or the board, officer, or employee of the authority designated to exercise the powers, shall exercise such powers and perform such duties, pursuant to this chapter, as the governing body of the public authority may prescribe.

10910. The governing body of any school district or community college district may use the buildings, grounds, and equipment of the district, or any of them, to carry out the purposes of this chapter, or may grant the use of any building, grounds, or equipment of the district to any other public authority for the purposes, whenever the use of the buildings, grounds, or equipment for community recreational purposes will not interfere with use of the buildings, grounds, and equipment for any other purpose of the public school system. Nothing in this section is intended to repeal any provision of, or to restrict or otherwise affect the use of school buildings under Sections 40040 to 40058, and 82530 to 82547, inclusive.

10911. Every public authority may appoint, prescribe the duties of, and provide for the compensation and necessary expenses of such recreational directors, supervisors, custodians, assistants, deputies, and other employees as it deems reasonably necessary for carrying out the provisions and purposes of this chapter. Only persons employed in positions requiring certification qualifications shall be paid out of funds set aside for the payment of teachers' salaries.

10912. The governing body of a school district or community college district may require persons, other than students, or organizations desiring to use the recreational facilities on school grounds or belonging to a school or the facilities provided by the district at a community recreation center maintained solely by the district to pay such fees for such use as the said governing body may prescribe.

10913. The governing body of a school district or community college district may require persons or organizations desiring to use schoolbuses belonging to a school to pay such fees for such use as the governing body may prescribe.

10914. All necessary expenses incurred by the governing body of any school district or community college district in carrying out the purposes of this chapter are a charge against the funds of the district from whatever source the funds have been received. All such expenditures shall be made in the same manner as funds are expended for other school purposes.

Nothing in this chapter shall be construed to change in any way existing laws regarding the use of school grounds or school buildings by governing boards of school districts or community college districts, except as specifically provided in this chapter.

10915. The Department of Education or the board of governors as the case may be, may advise and assist public school authorities, and upon request any public authority other than school districts, or community college districts in establishing, developing, and maintaining a system or systems of recreation in accordance with this chapter.

**CHAPTER 11. INTERAGENCY POWERS TO CONTRACT, SELL, OR  
LEASE****Article 1. Powers to Contract With Other Agencies**

11000. The governing board of any school district or community college district and the county superintendent of schools having jurisdiction over the district may, with approval of the county board of education, enter into an agreement for service which by law the county superintendent of schools is authorized to render to be rendered by one for the other. The agreement shall provide for the payment of an amount not less than the cost of providing such service. The county superintendent of schools shall transfer from the funds of the district to the county school service fund or from the county school service fund to the funds of the district the amount set forth in the agreement.

11001. One school district or community college district may perform school services for another school district or community college district, and receive pay from the other district for the performance of the service, whenever a contract covering the performance of and the payment for school service has been entered into by and between the governing boards of the districts concerned. Nothing contained in this section shall be construed to authorize the establishment of separate schools for pupils for any reason other than those set forth in this code.

11002. The governing boards of two or more school districts or community college districts whose boundaries are contiguous or coterminous may enter into an agreement upon such terms and conditions as may be agreeable to the respective governing boards for the joint use and maintenance of school buildings and other school facilities.

11003. The governing board of any school district or community college district or the county superintendent of schools of any county may enter into agreements to render to a campus of the California State University and Colleges, to the University of California, or to any state institution any service which such governing board or county superintendent of schools is authorized to provide to school districts or community college districts. Any such agreement must provide for the payment for services rendered of an amount not less than the cost of rendering such service. The Trustees of the California State University and Colleges, the Regents of the University of California, and the Director of Finance are hereby authorized to enter into such agreements as to any state university or college, the University of California, and any state institution, respectively.

All funds received by a county superintendent of schools under this section shall be paid by him into the county treasury to the

county school service fund and all funds received by the governing board of a district under this section shall be paid by it into the county treasury to the credit of the general fund of the district.

11004. The governing board of any school district or community college district required or authorized to maintain special training schools or classes for exceptional children may, with the approval of the county superintendent of schools, contract with any campus of the California State University and Colleges situated within the boundaries of the county within which the school district is located, upon such terms and conditions as may be agreed upon, to provide for the education of such children in, and for the transportation of such children to, the laboratory classes for exceptional children established and maintained within or without the boundaries of the school district by or in conjunction with such campus of the California State University and Colleges pursuant to Article 2 (commencing with Section 89210) of Chapter 2 of Part 52 of Division 8 of Title 3. As used in this section, "exceptional children" means physically handicapped pupils, mentally retarded pupils, or educationally handicapped pupils required or allowed to be educated pursuant to Article 1 (commencing with Section 56600) and Article 2 (commencing with Section 56630) of Chapter 4 of Part 30 of Division 4 of Title 2, Article 1 (commencing with Section 78600) of Chapter 4 of Part 48 of Division 7 of Title 3, and Article 1 (commencing with Section 56500) of Chapter 3 of Part 30 of Division 4 of Title 2.

11005. The governing boards of two school districts or two community college districts governed by governing boards of identical personnel may enter into an agreement for the two districts upon such terms and conditions as may be agreeable to the respective governing boards for the joint use and maintenance of school buildings and other school facilities of one or both of the districts or for the use and maintenance of the school buildings and other school facilities of one district by the other district.

11006. The governing board of any school district or community college district or the county board of education of any county may enter into agreements with the California State University and Colleges, the University of California, or any other university or college accredited by the State Board of Education as a teacher education institution, to provide teaching experience through practice teaching and to provide for supervised field experience in the public schools in such areas as may be called for in the requirements of the various authorized credentials for public school service to students enrolled in teacher education curricula of such institutions. Any such agreement may provide for the payment for the services rendered by the school district or community college district or the county board of education of an amount not to exceed the actual cost to the district or the county board of education of the services rendered or such agreement may provide for the rendering of services to the district or the county board of education of a value

not to exceed the actual cost to the district or the county board of education of the services rendered by the district. The Trustees of the California State University and Colleges and the Regents of the University of California are hereby authorized to enter into such agreements with the governing board of any school district or community college district or the county board of education of any county as to any campus of the California State University and Colleges, and the University of California, respectively.

All funds received by the governing board of a school district or community college district or the county board of education of a county under this section shall be paid by it into the county treasury to the credit of the general fund of the district or county.

11007. The governing board of any school district or community college district or the county superintendent of schools with the approval of the county board of education may enter into an agreement or agreements to render any services which may be provided children enrolled in nonpublic schools within the district or within the area under jurisdiction of the county superintendent of schools under the act of Congress entitled "Elementary and Secondary Education Act of 1965" (Public Law 89-10). Any such agreement shall provide for the payment for services of an amount not less than cost of rendering such service.

All funds received by a county superintendent of schools under this section shall be paid by him into the county treasury to the county school service fund and all funds received by the governing board of a school district or community college district under this section shall be paid by it into the county treasury to the credit of the general fund of the district.

## Article 2. Sale or Lease Between Districts Having Coterminous Boundaries and Identical Board Members

11020. Whenever a high school district and a community college district have coterminous boundaries and the same persons comprise both governing boards, either district may sell, exchange, grant or quitclaim all or any of its interest in, or may lease for a term not exceeding 99 years, to the other, any real property belonging to the district which is not or will not at the time of delivery of title or possession be needed for school classroom buildings by the district owning it, as provided in this article.

11021. Any sale, exchange, lease or grant of an interest in real property by a school district pursuant to Section 11020 shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article.

11022. The district owning the property shall not enter into and be a party to any such sale, exchange or lease unless the following conditions have been met:

- (a) A resolution authorizing such action and prescribing the terms

of the sale, exchange or lease has been adopted by the unanimous vote of all the members elected or appointed to the board;

(b) Such resolution has been published in a newspaper of general circulation published in the district, or if there be no such newspaper, in a newspaper having a general circulation in the district, once a week for three weeks prior to the making of the sale, exchange or the execution of the lease by the board.

11023. In any lease made pursuant to this article, it shall be competent to provide that the lessee may purchase the property at an agreed purchase price and that rental paid for the use of the property shall be applied in whole or in part upon the purchase price. The lessee may cancel the lease at the end of any budgetary year, and in such case shall not be obligated to complete the lease and shall be released from all obligations thereunder.

## PART 8. PARTICIPATION IN FEDERAL PROGRAMS AND INTERSTATE AGREEMENTS

### CHAPTER 1. ADMINISTRATION OF FEDERAL PROGRAMS—STATE BOARD OF EDUCATION

#### Article 1. No Agency Designated

12000. Whenever by any act of Congress funds are provided as federal aid to education to the several states and the disposition of the funds is not otherwise provided for by or under the act of Congress or by or under any law of this state, the apportionment and distribution thereof to school districts shall, insofar as consistent with the requirements prescribed by the federal law and implementing rules and regulations, be governed by the standards set forth in this article.

When any such federal law designates a state education agency or other agency or officer primarily responsible for state supervision of public schools, such designation shall be deemed to refer to the State Board of Education. The State Board of Education shall make timely application for any federal funds made available, and shall, pursuant to the federal law and the provisions of this article, direct the allocation and apportionment of the federal funds to local education agencies.

12001. The State Board of Education shall adopt rules and regulations for the allocation of federal funds to local school districts and other agencies entitled to receive federal funds for the support of schools. In determining the rules and regulations by which such allocations are to be made, the State Board of Education shall consider all factors of local effort and all educational programs maintained by such agencies. Such rules and regulations shall be based upon need and the agencies' abilities and efforts shall be carefully scrutinized.

12002. There is hereby created in the State Treasury the

**Auxiliary State School Fund.** Any funds received under act of Congress as federal aid to education, and not required by such act or any law of this state to be otherwise deposited, may be deposited in the Auxiliary State School Fund.

## Article 2. General Authority

12010. Whenever by the provisions of any act of Congress the act is to be administered in the state by the Superintendent of Public Instruction, Director of Education, Department of Education, State Board of Education, or any one or more of such officers, or agencies, the officers and agencies designated in the act of the Congress are authorized to administer the act in the state. Such officers and agencies are vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of the act of Congress and rules and regulations lawfully adopted thereunder.

12011. (a) The Superintendent of Public Instruction may apply to the United States Office of Education for recognition as an accrediting agency for private vocational schools under his or her jurisdiction for the purposes of receiving federal funds.

(b) If the Superintendent of Public Instruction is recognized by the federal government as an accrediting agency for private vocational schools under his jurisdiction, he or she may impose a fee for services performed in connection with such accreditation in an amount sufficient to cover the costs incurred by him or her in performing that function.

## Article 3. Emergency School Construction and Federal Impact Aid

12020. The State Board of Education is designated as the state educational agency to carry out the purposes and provisions of Public Law 815 and Public Law 874 of the 81st Congress, and is vested with all necessary power and authority to perform all acts necessary to receive the benefits and to allocate, upon the advice and recommendations of the Board of Governors of the California Community Colleges, the funds provided by such acts of Congress to public community colleges.

## Article 4. Elementary and Secondary Education Act of 1965 and National Defense Education Act of 1958

12030. The people of the State of California accept the provisions of, and each of the funds provided by, the act of Congress entitled "An act to strengthen the national defense and to encourage and assist in the expansion and improvement of educational programs to meet critical national needs; and for other purposes" (National Defense Education Act of 1958), approved September 2, 1958, and

the act of Congress entitled "Elementary and Secondary Education Act of 1965."

12031. In accepting the benefits of these acts of Congress, the people of the state agree to comply with all of their provisions and to observe all of their requirements.

12032. The State Board of Education is designated as the state educational agency to carry out the purposes and the provisions of these acts of Congress. The State Board of Education is hereby vested with authority to prepare and submit the the United States Commissioner of Education any state plan required by said acts of Congress, to prepare and submit amendments to such state plans, and to administer such state plans or amendments thereto, in accordance with said acts of Congress and any rules and regulations adopted thereunder. The State Board of Education is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of these acts of Congress and the rules and regulations adopted thereunder.

12033. The State Treasurer is designated as the custodian of all funds received by the state from the government of the United States, or of any agency or agencies thereof, under these federal acts and he is authorized to receive and provide for the custody of all moneys so received.

12034. The funds received by the state under the provisions of these federal acts shall be paid out by the State Treasurer on warrants drawn by the Controller and requisitioned by the State Board of Education in carrying out the purposes of these federal acts.

12035. The president or the administrative head of each community college and the State Nautical School may establish and administer student loan funds pursuant to the act of Congress known as the "National Defense Education Act of 1958." Money allocated for the purpose of establishing a student loan fund at the State Nautical School may be withdrawn from the State Treasury and deposited to the credit of that institution in a trust account in accordance with the provisions of Government Code Sections 16305 to 16305.7 for the purpose of making loans to students in accordance with the federal act.

12036. It is in the interests of the state and of the people thereof for the state to provide money for student loan funds in public institutions of higher learning on the basis of an amount equal to not less than one-ninth of federal capital contributions to such student loan funds as provided by the National Defense Education Act of 1958 for needy students at these publicly supported institutions.

#### Article 5. Vocational Education Acts

12050. The people of the state accept the provisions of, and each of the funds provided by, the act of Congress entitled "An act to provide for the promotion of vocational education; to provide for

cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide cooperation with the states in the preparation of teachers in vocational subjects; and to appropriate money and regulate its expenditure," and approved February 23, 1917.

12051. The people of the state accept the provisions of, and each of the funds provided by, the act of Congress entitled "An act to strengthen and improve the quality of vocational education and to expand the vocational opportunities in the Nation" approved December 17, 1963, and amended October 16, 1968.

12052. In accepting the benefits of the acts of Congress referred to in Sections 12050 and 12051 the people of the state agree to comply with all of their provisions and to observe all of their requirements.

12053. The State Board of Education is designated as the state board to carry out the purposes and the provisions of the acts of Congress, and is given all necessary power and authority to cooperate with the United States Commissioner of Education and the United States Office of Education in the administration of the provisions of the federal acts and of this article.

12054. For the purpose of implementing the program set forth in Chapter 2.5 (commencing with Section 10650) of Part 2 of Division 9 of the Welfare and Institutions Code, funds available may be used to provide vocational education services to present and potential recipients of public assistance, to the extent permitted by federal law.

12055. The Vocational Education Federal Fund in the State Treasury is hereby created. All grants of money received by this state from the United States, the expenditure of which is administered under the provisions of Sections 12050 to 12054, inclusive, and Sections 12020, 12220, and 12300 to 12307, inclusive, on order of the State Controller, shall be deposited in the Vocational Education Federal Fund.

12056. The State Treasurer, as required by the federal acts relating to vocational education referred to in Sections 12050 to 12054, inclusive, and Sections 12020, 12220, and 12300 to 12307, inclusive, shall receive and provide for the proper custody of all funds apportioned to the state under these acts. The amount received shall be deposited to the credit of the Vocational Education Federal Fund.

12057. The State Treasurer shall also receive and provide for the proper custody of all money appropriated by this article, of all money that may be hereafter appropriated for the purpose of carrying out the provisions of this article and of all money that may be received by the State Board of Education under the provisions of this article.

12058. All funds appropriated by the state for vocational education shall be expended pursuant to the provisions of this article.

12059. All money in the Vocational Education Federal Fund is hereby appropriated to the State Department of Education, without regard to fiscal years, for expenditure for the purposes for which the

money deposited therein is made available by the United States for expenditure by the state.

12060. The Director of Finance and the State Controller may approve any general plan whereby:

(a) Any expenditures which are a proper charge against money made available by the United States and deposited in the Vocational Education Federal Fund may be paid in the first instance from any appropriation from the General Fund, expenditures from which are administered under the provisions of Sections 12050 to 12054, inclusive, and Sections 12020, 12220, and 12300 to 12307, inclusive, and

(b) The General Fund shall be reimbursed for expenditures made therefrom that are a proper charge against the Vocational Education Federal Fund. Such a general plan may provide for advance transfer from the Vocational Education Federal Fund to the General Fund, based on estimates of such expenditures that will be subject to reimbursement from the Vocational Education Federal Fund pursuant to such plan, and may provide for reimbursement to the Vocational Education Federal Fund when necessary.

Requests for reimbursement or transfer pursuant to such a plan shall be furnished to the State Controller in writing by the Department of Education, accompanied by such financial statements as the plan may provide; and on order of the State Controller, the required amount shall be transferred in accordance therewith.

#### Article 6. Veterans' Education

12090. Subject to the provisions of this article, the Department of Education acting by and through the Director of Education is hereby authorized to enter into an agreement, or agreements, with the Veterans Administration, or any other agency of the federal government, for the education of veterans in any of the schools of the public school system, except the California State University and Colleges. Such contract shall provide for the payment to such schools through the Department of Education or otherwise of the maximum amount permitted by the act, or acts, of Congress under which the agreement, or agreements, is entered into by the Veterans Administration, or any other agency of the federal government.

12091. The Director of Education is vested with all necessary power and authority to cooperate with any such agency of the federal government in the administration of any applicable act of Congress and rules and regulations adopted thereunder.

12092. the Department of Education through the Director of Education is authorized to enter into agreements with governing boards of school districts for the education by such districts of veterans in accordance with the agreement between the Department of Education and the agency of the federal government.

12093. The governing board of any school district which entered into an agreement with the Department of Education under this

article may do any and all things required or authorized by such agreement of the board or district, including, but not limited to, the purchase of books, supplies and equipment for veterans educated under such agreement.

12094. The Department of Education shall exercise general supervision over, and shall provide for the coordination of, all services and facilities performed and provided by school districts for the education of veterans to the end that the needs of the veterans shall be met in the most adequate manner.

12095. The provisions of Sections 12020, 12220, and 12300 to 12307, inclusive, shall apply to all funds received by the state or any agency of the state under this article.

### Article 7. Surplus Federal Property

12110. The State Department of Education is hereby designated as the California State Educational Agency for Surplus Property.

12111. Said agency is authorized and directed to cooperate with the federal government and its agencies in securing the expeditious and equitable distribution of surplus property of the federal government to eligible institutions in California, to assist said institutions in securing such property and to do all things necessary to the execution of its powers and duties.

12112. Whenever by the provisions of any act of Congress or any rule or regulation adopted thereunder the agency is authorized to accept, receive, or purchase or resale from the federal government or any agency thereof, any property and to provide for its disposition or resale, it is authorized to do so and is vested with all necessary power and authority to accomplish such acceptance, purchase, receipt, disposition and resale. The agency is hereby exempted from the provisions of Article 2 (commencing with Section 14790), Chapter 6, Part 5.5, Division 3, Title 2 of the Government Code.

12113. (1) The California State Education Agency for Surplus Property in providing for the disposition of such property shall require the payment of such charges by the parties to whom property is transferred as the agency estimates will reimburse the agency for the average costs of procuring, storing, handling, and disposing of such property. All moneys received by the agency for charges under this section or its predecessor shall be paid into the State Treasury to the credit of the Educational Surplus Property Revolving Fund. The agency may reduce or eliminate charges on property found not to be usable for the purpose for which procured. Any moneys found by the agency to be in excess of the costs incurred in procuring, storing, handling and disposing of such property may, upon approval of the Department of Finance, be refunded to the parties from whom such moneys were received. Moneys refunded to the state agencies specified in subdivision (2) of this section shall be deposited in the State Treasury as provided in that subdivision.

(2) Notwithstanding any other provision of law, (a) the

revolving fund must be substantiated by vouchers filed with and audited by the Controller. From time to time, disbursements, supported by vouchers, may be reported to the Controller in connection with claims for reimbursement of the departmental revolving fund. At any time upon the demand of the Department of Finance or the Controller, such revolving fund must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

#### Article 8. Libraries

12130. The State Department of Education is hereby named and designated as the proper state agency to accept, receive and administer any and all funds, moneys or library materials, granted, furnished, provided, appropriated, dedicated or made available by the United States or any of its departments, commissions, boards, bureaus or agencies for the purpose of giving aid to public libraries in the State of California.

### CHAPTER 2. ADMINISTRATION OF FEDERAL PROGRAMS— BOARD OF GOVERNORS

#### Article 1. Programs Prior to 1967

12200. The State Board of Education is vested with all necessary power and authority to perform all acts necessary to authorize governing boards of districts maintaining community colleges to receive the benefits and to expend the funds provided by any acts of Congress under which districts maintaining community colleges may be eligible to receive benefits, including, but not limited to, Title VII of the Housing Act of 1961 (Public Law 87-70), as amended, and any of the acts of Congress referred to in this chapter. The board is vested with all necessary power and authority to authorize districts maintaining community colleges to cooperate with the government of the United States, or any agency or agencies thereof, for the purpose of receiving the benefits and expending the funds provided by said acts of Congress, or any rules or regulations adopted thereunder, or any state plan or rules or regulations of the California Postsecondary Education Commission adopted in accordance with any of said acts of Congress under which the California Postsecondary Education Commission is designated in this chapter as the state educational agency. Whenever necessary to secure the full benefits of said acts of Congress, the governing board may give such security as may be required and may comply with such conditions as may be imposed by the federal government. The funds received by the district under the provisions of said acts of Congress shall be deposited in the county treasury as provided for in Section 84001.

This section shall be applicable to only those acts of Congress

Department of Education, acting for state agencies supported principally from the General Fund, and (b) state agencies supported principally from a special fund of the State Treasury, shall deposit refunds received under subdivision (1) of this section to the credit of the state fund from which the state agency receives its principal support. The Department of Finance shall determine the fund from which the state agency receives its principal support.

12114. Notwithstanding any other provision of law, any party receiving surplus food pursuant to this article which elects to take direct delivery thereof from the federal government shall be required to reimburse the agency only for the actual cost to the agency of processing the documents relating to each such direct delivery of surplus food. Any party electing to take direct delivery must demonstrate that party's capability for the proper storage and distribution of the surplus food in accordance with regulations adopted by the Superintendent of Public Instruction.

12115. There is hereby created in the State Treasury the Surplus Educational Property Revolving Fund. Accumulated reserves resulting from handling and service charges shall be transferred from the appropriation made by Chapter 95 of the Statutes of the First Extraordinary Session of the 56th Legislature to said fund, upon the approval of the Director of Finance. On and after July 1, 1947, all costs of the State Educational Agency for Surplus Property, including but not limited to costs of procuring, transporting, shipping, and storing surplus property of the federal government and its distribution to educational agencies, and costs of general assistance and real property procurement, shall be paid from this fund. The Surplus Educational Property Revolving Fund shall be reimbursed from the support appropriation for the agency for costs of general assistance and real property procurement in accordance with Sections 11251 and 11252 of the Government Code.

12116. The California State Educational Agency for Surplus Property may send representatives out of this state for the purpose of inspecting property or conferring with federal and other state officials, provided such traveling and expenses have been approved by the Governor and by the Department of Finance. Such out-of-state travel shall not come within the limitation imposed in Section 33335 or 71049.

12117. The State Educational Agency for Surplus Property may, without at the time furnishing vouchers or itemized statements, draw from the Surplus Educational Property Revolving Fund for use as a departmental revolving fund:

- (a) A sum not to exceed thirty thousand dollars (\$30,000), or
- (b) With the approval of Department of General Services a sum in excess of thirty thousand dollars (\$30,000).

Any moneys so withdrawn may only be used, in accordance with law and Board of Control rules, for payment of compensation earned, traveling expense, traveling expense advances or where immediate payment is otherwise necessary. All disbursements from such

which have been enacted prior to January 1, 1967.

### Article 2. Administration of Federal Funds by Chancellor

12210. To the extent permitted by federal law, the Chancellor of the California Community Colleges shall administer federal funds allocated to the public community colleges.

### Article 3. General Authority

12220. Whenever by the provisions of any act of Congress the act is to be administered in the state by the Board of Governors of the Community Colleges, or Chancellor of the California Community Colleges, or any one or more of such officers, or agencies, the officers and agencies designated in the act of the Congress are authorized to administer the act in the state. Such officers and agencies are vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of the act of Congress and rules and regulations lawfully adopted thereunder.

## CHAPTER 3. ADMINISTRATION OF FEDERAL PROGRAMS—OTHER AGENCIES

### Article 1. State Allocation Board

12300. Notwithstanding any provisions of Section 12020, 12220, and 12300 to 12307, inclusive, whenever by any act of Congress funds are provided as federal aid to education to the several states for apportionment or allocation to school districts or community college districts for the purposes set forth in this section, and such act of Congress does not require that it be administered in this state by a state officer or agency other than the State Allocation Board, such act, with respect to the funds herein mentioned, shall be administered and such funds shall be apportioned by the State Allocation Board under the Local Agency Allocation Act.

The funds to which this section shall apply are funds appropriated by Congress for (a) the purchase and improvement of school sites; or (b) the purchase of furniture and equipment; or (c) the planning and construction, reconstruction, repair, alteration of, and addition to, school buildings and incidental facilities.

The State Allocation Board shall by rule provide for securing the recommendations or approval of the Department of Education or the Board of Governors of the California Community Colleges, as the case may be, as to the facilities to be provided.

Funds apportioned under this section shall be paid in accordance with the provisions of Section 12302 on claims submitted by the Director of General Services.

The State Allocation Board is hereby authorized to accept any such

funds on behalf of the state, and to cooperate with the government of the United States or any agency or agencies thereof in the administration of the act of Congress and rules and regulations lawfully adopted thereunder.

12301. The State Treasurer is designated as the custodian of all funds received by the state from the government of the United States or of any agency or agencies thereof and he is authorized to receive, and provide for the proper custody of, all moneys so received.

12302. The funds received by the state under the provisions of Sections 12020, 12220, and 12300 to 12307, inclusive, shall be expended by the officers or agency administering the program to carry out the provisions of the act of the Congress and rules and regulations lawfully adopted thereunder. Such funds are exempt from the provisions of Section 925.6 of the Government Code and shall be paid out by the Treasurer on warrants drawn by the State Controller on claims submitted by the Director of Education or the Chancellor of the California Community Colleges.

12303. The assent of the state is given to the provisions in the act of Congress entitled "An act to promote the mining of potash on the public domain," and approved by the President February 7, 1927, and to the provisions of the act of Congress entitled "An act to authorize exploration for and disposition of potassium," approved by the President October 2, 1917.

12304. All money derived from bonuses, royalties, and rentals under the provisions of the acts of Congress referred to in Section 12303, or either of said acts, and apportioned under the acts, or either of said acts, to the state shall be received by the State Treasurer and by him paid to the school districts and community college districts of the state as provided in Sections 12303 to 12307, inclusive.

12305. The money shall be apportioned among the school districts and community college districts in which potash leases or deposits are situated in the proportion which the total amount of rents, royalties, and other payments made to the United States from potash leases or deposits in each district bears to the total amount paid to the United States from leases or deposits in all districts.

12306. If any potash deposit or lease or any part thereof is wholly located within the boundaries of two or more elementary, high or unified school districts, or community college districts, the districts shall share equally in the apportionments made under Section 12305 which are attributable to the lease or deposit or part thereof situated within their boundaries.

12307. The payments shall be deposited in the general fund of the districts and shall be in addition to any other moneys paid or credited to the districts.

## Article 2. State Treasurer

12320. The assent of the state is given to the provisions in the act of Congress entitled "An act to promote the mining of coal,

phosphate, oil, oil shale, gas and sodium on the public domain," and approved by the President, February 25, 1920.

All money derived from bonuses, royalties, and rentals under the act of Congress referred to in this section and apportioned under the act to the state, shall be received by the State Treasurer and by him credited to the State School Fund.

#### CHAPTER 4. PARTICIPATION IN FEDERAL PROGRAMS

12400. The Board of Governors of the State Nautical School on behalf of the State Nautical School, the governing board of a school district on behalf of any school or community college maintained by the district, and any county superintendent of schools is vested with all necessary power and authority to perform all acts necessary to receive the benefits and to expend the funds provided by any act of Congress heretofore or hereafter enacted, and with all necessary power and authority to cooperate with, or enter into agreements with, the government of the United States, or any agency or agencies thereof, and with the State Board of Education and with other school districts and private or public nonprofit organizations for the purpose of receiving the benefits and expending the funds provided by any such acts of Congress, in accordance with such acts, or any rules or regulations adopted thereunder, or any state plan or rules or regulations of the State Board of Education adopted in accordance with such acts of Congress. Participation may also include the expenditure by the governing board of the State Nautical School, by the governing board of any school district, or the county superintendent of schools of whatever funds may be required by the federal government as a condition to such participation.

Participation in the act of Congress known as the "Emergency Employment Act of 1971" (P.L. 92-54) may be undertaken notwithstanding the provisions of Section 44858 or 87427.

12401. To the extent permitted by, and pursuant to, federal law, such agreements may be entered into by the governing board of a school district or community college district without prior approval of the State Board of Education or Board of Governors of the California Community Colleges, as the case may be.

12402. The governing board of a school district and the governing board of a community college district, on behalf of any school or community college maintained by the district, and any county superintendent of schools, is vested with all necessary power and authority to perform all acts necessary, provided such acts are consistent with other provisions contained in this code, to implement nutrition programs for the elderly, so long as there is available funding for such programs. Nutrition programs for the elderly shall include, but shall not be limited to, programs authorized pursuant to the McCarthy-Kennick Nutrition Program for the Elderly Act of 1972 as provided by Chapter 5.5 (commencing with Section 18325) of Part 6 of Division 9 of the Welfare and Institutions Code.

12403. All acts or proceedings heretofore taken, in connection with receiving the benefits or expending the funds provided by these acts of Congress are hereby ratified and confirmed.

12404. The governing board of any community college district may participate in any program, including but not limited to programs authorized by the National Defense Education Act of 1958, as amended; the Higher Education Act of 1965, as amended, and the Vocational Education Act of 1963, as amended; and has the authority to perform all acts necessary to receive the benefits and to expend the funds provided by these federal acts.

Such governing board may authorize the expenditure of district funds required by the federal government as matching funds as a condition of implementing student financial assistance programs.

12405. The governing board of any school district or community college district is authorized to accept the provisions of any act of Congress under which federal funds are available for purposes of this chapter, and may participate in any program provided thereunder in order to accept and expend such federal funds pursuant to such act of Congress and this chapter. Participation may include the expenditure by the district of whatever funds may be required by the federal government as a condition to such participation.

## CHAPTER 5. INTERSTATE AGREEMENTS

### Article 1. Interstate Agreement on Qualification of Educational Personnel

12500. The Interstate Agreement on Qualification of Educational Personnel is hereby entered into with all jurisdictions joining therein, in the form as follows:

#### Article I

#### Purpose, Findings, and Policy

1. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified

educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

## Article II

### Definitions

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving state" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

## Article III

### Interstate Educational Personnel Contracts

1. The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and

binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

#### Article IV

##### Approved and Accepted Programs

1. Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

## Article V

### Interstate Cooperation

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

## Article VI

### Agreement Evaluation

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

## Article VII

### Other Arrangements

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

## Article VIII

### Effect and Withdrawal

1. This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

2. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The

duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

## Article IX

### Construction and Severability

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the Constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

12501. The "designated state official" for this state shall be the Superintendent of Public Instruction. He shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text thereof by the State Board of Education.

### Article 2. Compact for Education

12510. The Compact for Education is hereby entered into with all jurisdictions joining therein, in the form as follows:

#### Article I. Purpose and Policy

(a) It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and

quantitative advance in educational opportunities, methods and facilities.

(b) It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

(c) The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

## Article II. State Defined

As used in this compact, "state" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

## Article III. The Commission

(a) The Educational Commission of the States, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor, two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed 10 nonvoting commissioners selected by the steering committee for terms of one year. Such

commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

(b) The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III (j).

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

(f) The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

(g) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(h) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(i) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendments thereto, with the appropriate agency or officer in each of the party states.

(j) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

#### Article IV. Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

#### Article V. Cooperation with Federal Government

(a) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or

pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

(b) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

#### Article VI. Committees

(a) To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for 1 year and 16 for 2 years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

(b) The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

(c) The commission may establish such additional committees as its bylaws may provide.

#### Article VII. Finance

(a) The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated

expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(b) The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula that takes equitable account of the populations and per capita income levels of the party states.

(c) The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(g) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III(g) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### Article VIII. Eligible Parties; Entry Into and Withdrawal

(a) This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

(b) Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

(c) Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who,

in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

(d) Except for a withdrawal effective on December 31, 1967, in accordance with paragraph (c) of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

### Article IX. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

12511. Pursuant to Article III(i) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the Secretary of State.

12512. The Member of the Assembly who shall serve upon the Educational Commission of the States representing the State of California shall be selected by the Speaker of the Assembly, and the Member of the Senate who shall serve thereon shall be selected by the Senate Committee on Rules. Each legislative member shall serve at the pleasure of the appointing power. For the purposes of this chapter, such Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter and shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

12513. At the same time as the report rendered to the governors and legislatures of the states is made available in California pursuant to Article III(j) of the compact, the California delegation to the Educational Commission of the States shall submit to the Governor and to the Legislature of this state a summary of its views that differ from the recommendations submitted by the Educational Commission of the States.

12514. The members of the California delegation to the Educational Commission of the States shall receive no salary, but

shall receive actual and necessary expenses incurred in fulfilling their duties.

12515. Notwithstanding any provisions of the Compact for Education set out in Section 12510 to the contrary, the four persons to be appointed by the Governor of California to serve as members of the Educational Commission of the States, shall be the following:

(a) Either a member of the State Board of Education, or a member of a local school district governing board.

(b) Either the Superintendent of Public Instruction, or another individual representing the public school system of this state or private elementary and secondary schools of this state.

(c) An individual representing the public institutions of higher education in this state.

(d) An individual representing the private institutions of higher education in this state.

12516. (a) This chapter shall remain operative until December 31, 1976, and after such date shall have no force or effect.

(b) The Legislature shall, at its 1973-74 Regular Session, and each fourth year thereafter, review the matter of California's participation in the Compact for Education to determine whether California should continue to be a party to the compact and thus whether the operation of this article should be extended.

## PART 9. FINANCE

### CHAPTER 1. STATE SCHOOL FUND

#### Article 1. Sources, Conditions of Apportionments, Amounts of Support Per Average Daily Attendance

14000. It is the intent of the Legislature that the administration of the laws governing the financial support of the public school system in this state be conducted within the purview of the following principles and policies:

The system of public school support should be designed to strengthen and encourage local responsibility for control of public education. Local school districts and community college districts should be so organized that they can facilitate the provision of full educational opportunities for all who attend the public schools. Local control is best accomplished by the development of strong, vigorous, and properly organized local school administrative units. It is the state's responsibility to create or facilitate the creation of local districts of sufficient size to properly discharge local responsibilities and to spend the tax dollar effectively.

Effective local control requires that all local administrative units contribute to the support of school budgets in proportion to their respective abilities, and that all have such flexibility in their taxing programs as will readily permit of progress in the improvement of the educational program. Effective local control requires a local

taxing power, and a local tax base which is not unduly restricted or overburdened.

The system of public school support should assure that state, local, and other funds are adequate for the support of a realistic foundation program. It is unrealistic and unfair to the less wealthy districts to provide for only a part of the financing necessary for an adequate educational program.

The system of public school support should permit and encourage local school districts and community college districts to provide and support improved district organization and educational programs. The system of public school support should prohibit the introduction of undesirable organization and educational practices, and should discourage any such practices now in effect. Improvement of programs in particular districts is in the interests of the state as a whole as well as of the people in individual districts, since the excellence of the programs in some districts will tend to bring about program improvement in other districts.

The system of public school support should make provision for the apportionment of state funds to local districts on a strictly objective basis that can be computed as well by the local districts as by the state. The principle of local responsibility requires that the granting of discretionary powers to state officials over the distribution of state aid and the granting to these officials of the power to impose undue restriction on the use of funds and the conduct of educational programs at the local level be avoided.

The system of public school support should effect a partnership between the state, the county, and the local district and community college districts, with each participating equitably in accordance with its relative ability. The respective abilities should be combined to provide a financial plan between the state and the local agencies known as the foundation program for public school support. Toward this foundation program, each county and district, through a uniform method should contribute in accordance with its true financial ability.

The system of public school support should provide, through the foundation program, for essential educational opportunities for all who attend the public schools. Provision should be made in the foundation program for adequate financing of all educational services.

The broader based taxing power of the state should be utilized to raise the level of financial support in the properly organized but financially weak districts of the state, thus contributing greatly to the equalization of educational opportunity for the students residing therein. It should also be used to provide a minimum amount of guaranteed support to all districts, for such state assistance serves to develop among all districts a sense of responsibility to the entire system of public education in the state. State assistance to all districts also would create a tax leeway for the exercise of local initiative.

14002. (a) The State Controller shall during each fiscal year

transfer from the General Fund of the state to that portion of the State School Fund restricted for elementary and high school purposes, hereinafter called Section A of the State School Fund such sums, in addition to the sums accruing from other sources, as shall provide in Section A of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, as certified by the Superintendent of Public Instruction, of one hundred eighty dollars (\$180).

(b) The Controller shall also transfer, as needed during each fiscal year, such additional amounts from the General Fund to Section A of the State School Fund as are certified from time to time by the Superintendent of Public Instruction to be necessary to meet actual computed apportionments from Section A of the State School Fund for the purposes set forth in Section 17303.5; provided that the total of such additional amounts transferred in a fiscal year shall not exceed, except pursuant to subdivision (c) of this section, two hundred thirteen dollars and ninety-six cents (\$213.96) for the fiscal year 1974-75 and fiscal years thereafter, per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, as certified by the Superintendent of Public Instruction, less the amount, if any, by which seventy-nine cents (\$0.79) multiplied by the number of units of average daily attendance credited during the preceding fiscal year to all elementary, high, and unified school districts and to all county superintendents of schools in the state exceeds twenty-one dollars and fifty cents (\$21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the preceding school year had less than 1,501 units of average daily attendance.

(c) In addition to the amounts authorized to be transferred to Section A of the State School Fund under subdivisions (a) and (b) of this section, the Controller shall transfer from the General Fund to Section A of the State School Fund during the fiscal year, upon certification of the Superintendent of Public Instruction, if necessary to meet actual computed apportionments for the fiscal year for the purposes set forth in Sections 17303 and 17303.5, an amount not to exceed the lesser of: (1) 1 percent of the total apportionment from Section A of the State School Fund in the preceding fiscal year for the purposes set forth in Sections 17303 and 17303.5, or (2) the net amount, if any, by which the total amounts authorized to be transferred from the General Fund to Section A of the State School Fund under subdivisions (a) and (b) of this section in prior fiscal

years have exceeded the total amounts actually apportioned in prior fiscal years for the purposes set forth in Sections 17303 and 17303.5.

(d) He shall also transfer to Section A of the State School Fund any additional amounts appropriated thereto by the Legislature in augmentation of any of the amounts prescribed for any of the purposes set forth in Sections 17303 and 17303.5 and such additional amounts shall be allowed and apportioned by the Superintendent of Public Instruction and warrants therefor drawn by the Controller in the manner provided in Articles 1 (commencing with Section 17300), 2 (commencing with Section 17351), and 3 (commencing with Section 17401) of this chapter, in Sections 11256 and 17251, and in Chapter 3 (commencing with Section 17601) of this division.

(e) Commencing with the 1974-75 fiscal year, the unit amounts under subdivisions (a) and (b) of this section shall be considered to be cumulatively increased or decreased, as the case may be, by an amount equal to the percentage increase or decrease of the statewide ratio of assessed valuation per unit of kindergarten through grade 12 statewide average daily attendance, excluding defined adults, using in such ratios the data for the preceding year compared with the second preceding year.

For the 1974-75 fiscal year, each elementary and high school foundation program shall be increased by sixty dollars (\$60) except that if the percentage increase of the statewide ratio of assessed valuation per unit of average daily attendance in kindergarten and grades 1 to 12, inclusive, determined in subdivision (e) is less than seven, the sixty dollars (\$60) shall be reduced proportionately, but to no less than fifty dollars (\$50).

The Superintendent of Public Instruction shall prepare a report for the Legislature, to be submitted by December 1, 1976, which shall show the most current trends in costs for school districts, equalization of school district expenditures per average daily attendance, equalizations of property taxation for schools, adequacy levels in expenditures per average daily attendance, school enrollment, assessed valuations, assessed valuation per average daily attendance, and general cost changes in the state for the purpose of giving the Legislature information that the Legislature may use to enact new provisions about increases or decreases in the foundation programs for public school support.

(f) The amounts transferred pursuant to this section shall include the amounts required to be transferred by Section 16130 of the Government Code, exclusive of the amounts required to be transferred pursuant to Section 16130 of the Government Code for the educational need factor and the Early Childhood Educational Program (Chapter 1147, Statutes of 1972).

(Repealed and added by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

14002. (a) The State Controller shall during each fiscal year transfer from the General Fund of the state to that portion of the State School Fund restricted for elementary and high school purposes, hereinafter called Section A of the State School

Fund such sums, in addition to the sums accruing from other sources, as shall provide in Section A of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, as certified by the Superintendent of Public Instruction, of one hundred eighty dollars (\$180).

(b) The Controller shall also transfer, as needed during each fiscal year, such additional amounts from the General Fund to Section A of the State School Fund as are certified from time to time by the Superintendent of Public Instruction to be necessary to meet actual computed apportionments from Section A of the State School Fund for the purposes set forth in Section 41301: provided that the total of such additional amounts transferred in a fiscal year shall not exceed, except pursuant to subdivision (c) of this section, two hundred thirteen dollars and ninety-six cents (\$213.96) for the fiscal year 1974-75 and fiscal years thereafter, per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, as certified by the Superintendent of Public Instruction, less the amount, if any, by which seventy-nine cents (\$0.79) multiplied by the number of units of average daily attendance credited during the preceding fiscal year to all elementary, high, and unified school districts and to all county superintendents of schools in the state exceeds twenty-one dollars and fifty cents (\$21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the preceding school year had less than 1,501 units of average daily attendance.

(c) In addition to the amounts authorized to be transferred to Section A of the State School Fund under subdivisions (a) and (b) of this section, the Controller shall transfer from the General Fund to Section A of the State School Fund during the fiscal year, upon certification of the Superintendent of Public Instruction, if necessary to meet actual computed apportionments for the fiscal year for the purposes set forth in Sections 41300 and 41301, an amount not to exceed the lesser of (1) 1 percent of the total apportionment from Section A of the State School Fund in the preceding fiscal year for the purposes set forth in Sections 41300 and 41301, or (2) the net amount, if any, by which the total amounts authorized to be transferred from the General Fund to Section A of the State School Fund under subdivisions (a) and (b) of this section in prior fiscal years have exceeded the total amounts actually apportioned in prior fiscal years for the purposes set forth in Sections 41300 and 41301.

(d) He shall also transfer to Section A of the State School Fund any additional amounts appropriated thereto by the Legislature in augmentation of any of the amounts prescribed for any of the purposes set forth in Sections 41300 and 41301 and such additional amounts shall be allowed and apportioned by the Superintendent of Public Instruction and warrants therefor drawn by the Controller in the manner provided in Article 1 (commencing with Section 14000) and Article 2 (commencing with Section 14040) of Chapter 1 of Part 9 of this division, and Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of Title 2, and in Sections 46304, 84503, and 41050, and Article 1 (commencing with Section 41600) of Chapter 4 of Part 24 of Division 3 of Title 2.

(e) Commencing with the 1974-75 fiscal year, the unit amounts under subdivisions (a) and (b) of this section shall be considered to be increased or decreased, as the case may be, by an amount equal to the percentage increase or decrease of the statewide ratio of assessed valuation per unit of kindergarten through grade 12 statewide average daily attendance, excluding defined adults, using in such ratios the data for the preceding year compared with the second preceding year.

The Superintendent of Public Instruction shall adjust the foundation program levels as follows:

For the 1974-75 fiscal year, each elementary and high school foundation program shall be increased by sixty dollars (\$60) except that if the percentage increase of the statewide ratio of assessed valuation per unit average daily attendance in kindergarten and grades 1 to 12, inclusive, determined in subdivision (e) is less than seven, the sixty

dollars (\$60) shall be reduced proportionately, but to no less than fifty dollars (\$50). The foundation program for defined adults in high school districts shall be increased by twenty-seven dollars (\$27).

For the 1975-76 fiscal year, each elementary and high school foundation program shall be increased by sixty-three dollars (\$63) except that if the percentage increase of the statewide ratio of assessed valuation per units of average daily attendance in kindergarten and grades 1 to 12, inclusive, determined in subdivision (e) is less than seven, the sixty-three dollars (\$63) shall be reduced proportionately, but to no less than fifty-three dollars (\$53). The foundation program for defined adults in high school districts shall be increased by twenty-nine dollars (\$29).

For the 1976-77 fiscal year, each elementary and high school foundation program shall be increased by sixty-six dollars (\$66) except that if the percentage increase of the statewide ratio of assessed valuation per units of average daily attendance in kindergarten and grades 1 to 12, inclusive, determined in subdivision (e) is less than seven, the sixty-six dollars (\$66) shall be reduced proportionately, but to no less than fifty-six dollars (\$56). The foundation program for defined adults in high school districts shall be increased by thirty-one dollars (\$31).

The Superintendent of Public Instruction shall prepare a report for the Legislature, to be submitted by December 1, 1976, which shall show the most current trends in costs for school districts, equalization of school district expenditures per average daily attendance, equalizations of property taxation for schools, adequacy levels in expenditures per average daily attendance, school enrollment, assessed valuations, assessed valuation per average daily attendance, and general cost changes in the state for the purpose of giving the Legislature information that the Legislature may use to enact new provisions about increases or decreases in the foundation programs for public school support. For the 1977-78 fiscal year and fiscal years thereafter, and if the Legislature does not provide otherwise, the increase in elementary and high school foundation programs shall be 6 percent times an amount which is determined as follows: (1) Multiply the unit elementary school foundation program for unified districts which have an elementary average daily attendance of 901 or more by the elementary foundation program units of average daily attendance of unified districts with 901 or more elementary average daily attendance, plus (2) multiply the unit high school foundation program for unified districts which have a high school average daily attendance of 301 or more, by the average daily attendance of unified districts with 301 or more high school average daily attendance, and (3) divide the result by the sum of the average daily attendance in unified districts with 901 or more elementary average daily attendance plus the average daily attendance in unified districts with 301 or more high school average daily attendance.

The increase in the foundation program for defined adults in high schools shall be 6 percent times the foundation program for defined adults of the prior year.

(f) The amounts transferred pursuant to this section shall include the amounts required to be transferred by Section 16130 of the Government Code, exclusive of the amounts required to be transferred pursuant to Section 16130 of the Government Code for the educational need factor and the Early Childhood Educational Program (Chapter 1147, Statutes of 1972).

14003. (a) The State Controller shall during each fiscal year, commencing with the 1974-75 fiscal year, transfer from the General Fund to Section A of the State School Fund such amount, in addition to all other amounts appropriated and transferred to Section A of the State School Fund, as shall provide in Section A of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state as certified by the Superintendent of Public Instruction, of eleven dollars and sixty-four cents (\$11.64) in the 1974-75 fiscal year and an additional one dollar and fifty-nine cents (\$1.59) in each fiscal year thereafter to a

maximum of eighteen dollars (\$18).

The amounts transferred pursuant to this section shall be apportioned and disbursed by the Superintendent of Public Instruction as an increase per unit of average daily attendance in the foundation programs prescribed in Section 41716 or 84725.

14004. In addition to all other funds appropriated and transferred to Section A of the State School Fund, the Controller shall annually transfer from the General Fund to Section A of this State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state as certified by the Superintendent of Public Instruction of fourteen cents (\$.14).

14005. (a) The amount to be transferred to Section A of the State School Fund under Section 14002 shall in each fiscal year be adjusted for errors of average daily attendance reported in prior fiscal years. Adjustment of such errors will be subject to the time limitations as provided in Section 41341. Such adjustments with regard to the amount to be transferred to Section A of the State School Fund shall be at the state's rate of contribution under Section 14002 in effect in the fiscal year to which the error applied, and shall be applied in accordance with the purposes set forth under Section 41300. The amount of any adjustment shall not, however, cause the amount to be transferred to Section A of the State School Fund during any fiscal year under Section 14002 to be less than one hundred eighty dollars (\$180) per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state.

(b) If in any fiscal year the amount transferred to Section A of the State School Fund under Sections 41304 and 41307 is reported to be in error, the Superintendent of Public Instruction shall notify the Controller of such error, and he shall add to or withhold from the next apportionment moneys due the district by transfers from or returns to the General Fund of such erroneous amounts.

14020. (a) The State Controller shall during each fiscal year transfer from the General Fund of the state to that portion of the State School Fund restricted for community college purposes, hereinafter called Section B of the State School Fund, such sums, in addition to the sums accruing from other sources, as shall provide in Section B of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all community colleges and adult schools maintained in conjunction with community colleges in the state, as certified by the Chancellor of the California Community Colleges, of one hundred eighty dollars (\$180).

(b) The Controller shall also transfer, as needed during each fiscal year, such additional amounts from the General Fund to Section B of the State School Fund as are certified from time to time by the Chancellor of the California Community Colleges to be necessary to

meet actual computed apportionments from the State School Fund for the purposes set forth in Section 84300; provided that the total of such additional amounts transferred in a fiscal year shall not exceed, except pursuant to subdivision (c) of this section, three hundred one dollars and eighty-nine cents (\$301.89) for the 1974-75 fiscal year and fiscal years thereafter, per pupil in average daily attendance during the preceding fiscal year credited to all community colleges and adult schools maintained in conjunction with community colleges in the state, as certified by the Chancellor of the California Community Colleges.

(c) In addition to the amounts authorized to be transferred to Section B of the State School Fund from the General Fund under subdivisions (a) and (b) of this section, the Controller shall transfer from the General Fund to Section B of the State School Fund during the fiscal year, upon certification of the Chancellor of the California Community Colleges, if necessary to meet actual computed apportionments for the fiscal year for the purposes set forth in Section 84300, an amount not to exceed 1 percent of the total apportionment from Section B of the State School Fund in the preceding fiscal year for the purposes set forth in Section 84300.

(d) He shall also transfer to Section B of the State School Fund any additional amounts appropriated thereto by the Legislature in augmentation of any of the amounts prescribed for any of the purposes set forth in Section 84300 and such additional amounts shall be allowed and apportioned by the Chancellor of the California Community Colleges and warrants therefor drawn by the Controller in the manner provided in Article 1 (commencing with Section 14000) and Article 2 (commencing with Section 14040) of Chapter 1 of Part 9 of this division, and Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of Title 2, and in Sections 41050, 46304, and 84503, and Article 1 (commencing with Section 41600) of Chapter 4 of Part 24 of Division 3 of Title 2.

14021. (a) The amount to be transferred to Section B of the State School Fund under Section 14020 shall in each fiscal year be adjusted for errors of average daily attendance reported in prior fiscal years. Adjustment of such errors will be subject to the time limitations as provided in Section 41341 or 84330. Such adjustments with regard to the amount to be transferred to Section B of the State School Fund shall be at the state's rate of contribution under Section 14020 in effect in the fiscal year to which the error applied, and shall be applied in accordance with the purposes set forth under Section 84300. The amount of any adjustment shall not, however, cause the amount to be transferred to Section B of the State School Fund during any fiscal year under Section 14020 to be less than one hundred eighty dollars (\$180) per pupil in average daily attendance during the preceding fiscal year credited to all community colleges and adult schools maintained in conjunction with community colleges in the state.

14022. The State Controller shall during each fiscal year,

commencing with the 1974-75 fiscal year, transfer from the General Fund to Section B of the State School Fund such amount, in addition to all other amounts appropriated and transferred to Section B of the State School Fund, as shall provide in Section B of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all community college districts in the state as certified by the Chancellor of the California Community Colleges of fourteen dollars and fifty-six cents (\$14.56) in the 1974-75 fiscal year and an additional two dollars and eighty cents (\$2.80) in each fiscal year thereafter to a maximum of twenty-five dollars and seventy-six cents (\$25.76).

The amounts transferred pursuant to this section shall be apportioned and disbursed by the Chancellor of the California Community Colleges as an increase per unit of average daily attendance in the foundation programs prescribed in Section 41716 or 84725.

14030. (a) The Controller shall also transfer from the General Fund to the State School Fund the sum of seventeen dollars (\$17) per unit of average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, community college, and adult schools in the state, and to the county school tuition funds.

(b) The Controller shall also transfer an amount sufficient to increase the foundation program for other than adults, as defined, in community colleges by sixty dollars (\$60) for the 1974-75 fiscal year, by sixty-three dollars (\$63) for the 1975-76 fiscal year, and by sixty-six dollars (\$66) for the 1976-77 fiscal year and each succeeding fiscal year thereafter, unless revised by the Legislature prior to July 1, 1977.

(c) The Controller shall also transfer an amount sufficient to increase the foundation program for adults, as adults are defined in Section 5756, in community colleges by 7 percent for the 1974-75, 1975-76, and 1976-77 fiscal years, and by 6 percent for the 1977-78 fiscal year, and fiscal years thereafter, unless revised by the Legislature prior to July 1, 1977.

The Superintendent of Public Instruction shall adjust the foundation program levels prescribed for community college districts in order to reflect the adjustments made pursuant to this subdivision.

14035. The county school service fund contingency account is hereby established in the General Fund. In each fiscal year the amount credited to the account shall be one hundred thousand dollars (\$100,000). Notwithstanding any provision of Section 14002 to the contrary, the amount to be credited to the county school service fund contingency account each fiscal year shall not be transferred from the General Fund as required or authorized to be transferred by Section 14002 but the amounts required or authorized to be transferred by Section 14002 shall be reduced by the amount to be credited to the contingency account and shall remain in the General

Fund to the credit of the contingency account.

The money in the General Fund to the credit of the contingency account shall be transferred by the Controller to the State School Fund in amounts as are certified from time to time by the Superintendent of Public Instruction to be necessary to meet actual costs to reimburse county superintendents of schools for expenses incurred in providing emergency education to pupils and making financial grants to school districts pursuant to Section 1602 and to reimburse county superintendents of schools for the actual and necessary travel expenses incurred in connection with cooperative county publication projects by the county superintendent of schools or members of his staff, and to reimburse county superintendents of schools for expenses incurred in making emergency financial grants to school districts pursuant to Section 1886.

Commencing with the 1964-65 fiscal year, the amount credited, pursuant to this section, in each fiscal year to the county school service fund contingency account in the General Fund shall be reduced by the amount of the balance remaining to the account on June 30 of the preceding fiscal year and an equal reduction shall be made in the amount of the reduction in the amounts required or authorized to be transferred under Section 14002 in accordance with this section.

## Article 2. Maintenance, Amount and Manner of Drawing Warrants

14040. The Controller shall keep a separate account of the State School Fund, and of the interest and income thereof, together with such money as is raised by special tax or otherwise for school purposes.

14041. (a) The Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in each month of each year in the amounts and manner as herein prescribed so as to provide in each warrant a portion of the total amount certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as apportioned under the provisions of Sections 41330 to 41343 and 84320 to 84332, inclusive, and Chapter 4 (commencing with Section 41600) and Chapter 5 (commencing with Section 41700) of Part 24 of Division 3 of Title 2, inclusive, during the fiscal year from the State School Fund to the school districts under the jurisdiction of the county superintendent of schools of the county, to the county school service fund, and to the county school tuition fund of the county.

(1) Warrants for amounts allowed to the county school service funds under subsections (a) and (b) of Section 14054 shall be for amounts equal to 6 percent in July, 12 percent in August, 10 percent in September, and 8 percent in each remaining month of the fiscal year of the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as

a part of the advance apportionment.

(2) Warrants for amounts apportioned to school districts and county school service funds for classes maintained by county superintendents of schools and to the county school tuition funds shall be for amounts equal to 6 percent in July, 12 percent in August, and 8 percent in September, October, November, December, and January, of the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as a part of the advance apportionment.

(3) Warrants in the months of February to May, inclusive, shall be for amounts equal to one-sixth of the difference between the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges for school districts, community college districts, and county school service funds for classes maintained by county superintendents of schools and county school tuition funds as the first principal apportionment and the amounts required by subdivision (2) of this subdivision. An additional one-sixth of such difference shall be included in the warrants for the month of February.

(4) Warrants for the month of June shall be for amounts equal to the difference between the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges for school districts, community college districts, and county school service funds for classes maintained by county superintendents of schools and county school tuition funds as the second principal apportionment and the amounts required by subdivisions (2) and (3) of this subdivision.

(5) Warrants in the months of September to November, inclusive, shall include one-tenth of the estimated total amounts of the special purpose apportionment, as determined by the Superintendent of Public Instruction or Chancellor of the California Community Colleges. Warrants in December shall include one-tenth of the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as the special purpose apportionment, as adjusted, if necessary, to correct excesses or deficiencies in the estimates made for purposes of the warrants in the months of September to November, inclusive. An additional one-tenth of the amounts of the special purpose apportionment shall be included in the warrants for the months from January to June, inclusive.

(6) Warrants in June shall include the total amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as the final apportionment.

(b) The drawing of the warrants required to be drawn during any one of the months mentioned may be postponed by the Controller for not to exceed 30 days, but the total amounts due the several counties during any fiscal year shall be paid within the fiscal year. The warrants shall be paid by the State Treasurer from the State School Fund and are not subject to the provisions of Government

Code Section 925.6.

14042. (a) If the Superintendent of Public Instruction does not certify to the Controller, on or before the 20th day of February, the amounts apportioned by him as the first principal apportionment, the Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in the month of February, and in each month thereafter until the month following his receipt of such certification, for amounts equal to the warrants drawn for January.

(b) In the month following the receipt of the certification of the amounts apportioned by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges as the first principal apportionment, the Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in an amount equal to the difference between the amount of the warrants which would have been drawn pursuant to Section 14041 had the certification been received by the Controller not later than February 20th and the amount of the warrants drawn pursuant to subdivision (a) of this section.

(c) Warrants drawn under this section shall be drawn on the State School Fund and are not subject to the provisions of Government Code Section 925.6.

14043. All moneys received by the treasurer of any county from the apportionments of the State School Fund shall be immediately credited by the treasurer to the county school service fund, the county school tuition fund, and the general funds of the several school districts of the county exactly as apportioned by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges.

### Article 3. County School Service Funds—Computation of Allowances and Budgetary Requirements

14050. The county superintendent of schools shall on or before April 1st of each year submit to the Superintendent of Public Instruction a budget for the succeeding fiscal year, in such form as the Superintendent of Public Instruction shall prescribe, setting forth all known and estimated revenues of the county school service fund for such fiscal year from all sources, and the proposed expenditures from the county school service fund for such fiscal year. The budget shall be approved by the Superintendent of Public Instruction. When a budget is submitted to the Superintendent of Public Instruction for his approval, he shall make a review of each program prior to approving the budget. No allowance shall be made under Sections 14050 to 14056, inclusive, whichever are in effect, to a county superintendent of schools for any item of current expenses or capital outlay with respect to which the county superintendent has failed to comply with the regulations of the Superintendent of Public Instruction which he is herewith authorized to adopt

applicable to such item. The regulations adopted by the Superintendent of Public Instruction hereunder shall not be limited to, but shall, among other matters:

(a) Prescribe procedures relating to budgeting, purchasing and replacing capital outlay items.

(b) Prescribe procedures relating to the purchase, replacement, operation and maintenance of automotive equipment.

(c) Prescribe the conditions under which the county superintendent of schools may provide services to districts by contract.

(d) Prescribe the conditions under which allowances may be made to the county superintendent of schools to contract for the services of special consultants.

(e) Prescribe the conditions under which allowances may be made to the county superintendent of schools to assume functions authorized by law to be performed either by the county superintendent of schools or another public agency.

(f) Prescribe conditions under which allowances will be made to meet conditions of an emergency nature requiring the establishment and maintenance of emergency schools, the providing of emergency teachers for regular elementary schools, the providing of emergency transportation to regular elementary schools, or emergency apportionments to school districts.

(g) Define county school service fund publications and prescribe the procedures to be followed relating to budgeting, printing and distributing such publications.

(h) Establish, solely for budget approval purposes, a classification of county school service fund personnel and a salary schedule for each classification.

Upon the approval of the budget by the Superintendent of Public Instruction, he shall note his approval thereon and transmit one copy thereof to the county superintendent of schools and one copy to the county auditor of the county.

14051. The amount of any expenditure by a county superintendent of schools in excess of the amount set forth for the particular program of the approved budget of a county school service fund shall be withheld by Superintendent of Public Instruction from the allowances made in the next succeeding fiscal year to that county school service fund.

14052. Whenever any budget is submitted to the Superintendent of Public Instruction which includes items for the preparation of courses of study, the development of courses of study or curricula materials, or research and development studies or development of publication in connection with curricular and special services of the county superintendent of schools, the county superintendent of schools submitting such budget shall submit with the budget documents in justification as may be required by the Superintendent of Public Instruction. In reviewing the budget pursuant to Section 14050, the Superintendent of Public Instruction shall also review the

justification documents and shall submit an analysis of the documents to the Legislature prior to the fifth day of each regular session.

The State Board of Education shall establish definitions for publications, and each county superintendent of schools, upon making any publication shall transmit a copy thereof to the State Board of Education.

In evaluating and analyzing justification documents, the Superintendent of Public Instruction shall be advised by an advisory committee composed of county superintendents of schools, which committee the Superintendent of Public Instruction is hereby authorized to appoint.

14053. In approving submitted budgets, the Superintendent of Public Instruction shall eliminate surpluses in the county school service fund by reducing the total amount requested in the submitted budget by the amount of the surplus in the fund. As used in this section "surplus" shall have the meaning prescribed in Sections 14071 and 14072. Trust funds and otherwise dedicated funds and amounts derived from county school taxes collected and levied prior to 1935, as described in Sections 14071 and 14072, shall be excluded in determining surpluses.

14054. The Superintendent of Public Instruction shall during each fiscal year allow to the county school service fund of each county from the State School Fund such amounts as the budget submitted by the county superintendent of schools and approved by the Superintendent of Public Instruction, under Section 14050, shows is necessary, but:

(a) The total amount allowed by the Superintendent of Public Instruction under this section to all county school service funds for supervision of instruction and health, attendance, and guidance services pursuant to Sections 1730 to 1762, inclusive, for pupils in elementary school districts which during the next preceding fiscal year had less than 901 units of average daily attendance, in high school districts which, during the preceding year had less than 301 units of average daily attendance, and in unified school districts which during the next preceding fiscal year had less than 1,501 units of average daily attendance shall not exceed the sum provided by law for such purpose or the amounts shown necessary by such budgets, for such purpose, whichever is the lesser.

(b) The total amount allowed by the Superintendent of Public Instruction under this section to all county school service funds for all other purposes shall not exceed the sum provided by law for such purposes or the amounts shown necessary by such budgets, whichever is the lesser.

14055. The Superintendent of Public Instruction shall allow at such times as needed to the county school service fund of each county eligible to receive reimbursement from the amount credited to the county school service fund contingency account in the State General Fund, the amounts claimed by the county superintendent of schools as expenditures from the county school service fund

eligible for reimbursement. No amounts for purposes specified in Section 14035 shall be included in the budgets submitted by a county superintendent of schools to the Superintendent of Public Instruction.

14056. The budget submitted pursuant to Section 14050 shall include an amount equal to that specified by law as the state's contribution toward payment of the annual salary of the county superintendent of schools to be used exclusively for the partial payment of the annual salary of the county superintendent of schools. Such amount shall be paid for such purpose from the allowance made to the county school service fund pursuant to Section 14054.

14057. The Superintendent of Public Instruction shall allow, in addition to all other allowances, to the county school service funds: (a) for all emergency schools maintained in each elementary school district of the county by the county superintendent of schools, (b) all special schools or classes for mentally retarded pupils and severely mentally retarded pupils maintained in each elementary school district of the county by the county superintendent of schools, (c) each elementary school maintained in juvenile halls, juvenile homes, and juvenile camps, by the county superintendent of schools, and all opportunity schools and classes maintained by the county superintendent of schools pursuant to Sections 48633 and 48634, and (d) all schools and classes for educationally handicapped pupils maintained in each elementary school district of the county by the county superintendent of schools, the same amount as he would compute as the foundation program of the elementary school district under Section 41703 or Section 41704.

No allowance shall be made for emergency schools which is in excess of the actual expense of maintaining the emergency school.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

14057. The Superintendent of Public Instruction shall allow, in addition to all other allowances, to the county school service funds: (a) for all emergency schools maintained in each elementary school district of the county by the county superintendent of schools, (b) all special schools or classes for mentally retarded pupils and severely mentally retarded pupils maintained in each elementary school district of the county by the county superintendent of schools, (c) each elementary school maintained in juvenile halls, juvenile homes, and juvenile camps, by the county superintendent of schools, and all opportunity schools and classes maintained by the county superintendent of schools pursuant to Sections 48635 and 48636, and (d) all schools and classes for educationally handicapped pupils maintained in each elementary school district of the county by the county superintendent of schools, the same amount as he would compute as the foundation program of the elementary school district under Section 41703 or Section 41704

No allowance shall be made for emergency schools which is in excess of the actual expense of maintaining the emergency school.

14058. For all physically handicapped pupils, mentally retarded minors and educationally handicapped minors of secondary grade, and handicapped adults, educated by the county superintendent of schools, for all secondary schools maintained in juvenile halls,

juvenile homes and juvenile camps by the county superintendent of schools, and for all students enrolled in grades 9 to 12, inclusive, in opportunity schools and classes and all continuation schools and classes maintained by the county superintendent of schools, the Superintendent of Public Instruction shall allow the same amount as he would compute for the foundation program of a high school district under Section 41712.

However, with respect to handicapped adults, the following limits shall apply:

(a) The total of allowances for education of handicapped adults in classes established by the county superintendent of schools pursuant to Section 52570 or 78440 shall not exceed fifty thousand dollars (\$50,000) in any one fiscal year. The Superintendent of Public Instruction shall establish a system of priorities that he shall by rule or regulation adopt which shall give highest priority to those counties in which no or an insufficient program for the education of handicapped adults is provided by the school districts within the county, in order to comply with the limitation prescribed by this subdivision.

(b) The Superintendent of Public Instruction shall allow for handicapped adults the amount specified in Section 41840 or 84780 for each unit of average daily attendance for adults for high school districts.

#### Article 4. Recovery of County School Service Fund Accumulated Surpluses

14070. After making all determinations provided for in Article 3 (commencing with Section 14050) of this chapter for the fiscal year 1961-62, but prior to authorizing any transfer of funds from the General Fund to the State School Fund under Sections 14000 to 14043, Sections 41300 to 41423, and Sections 84300 to 84374, the Superintendent of Public Instruction shall proceed as specified in this article to eliminate accumulated surpluses in the several county school service funds.

(Added by Stats. 1976, Ch. 1011.)

14071. The superintendent shall compute an amount equal to the surplus in each of the county school service funds as of June 30, as shown by each of the budgets for the preceding fiscal year submitted to him pursuant to Section 14050. For the purpose of this article the surplus for each county school service fund is the total beginning balances shown on the budget so submitted, exclusive of trust funds or funds otherwise dedicated. For the purpose of this section trust funds or funds otherwise dedicated are defined as

(1) Unexpended balance of any funds that have accrued to a county school service fund under a grant of federal funds, or a grant of private or foundation funds, required to have been expended for a specified purpose, plus the amounts of county school service fund

money committed for the specific purposes as required to receive the grant or trust;

(2) Unexpended balance of any state funds allocated on an average daily attendance basis for the purpose of maintaining juvenile hall schools, regional occupational centers and technical, agricultural, and natural resource conservation schools;

(3) Unexpended balances of a county or school district tax funds the levy for which was to maintain special schools and classes for the mentally retarded and physically handicapped, juvenile hall schools, children's institutions, regional occupational centers, and technical, agricultural, and natural resource conservation schools;

(4) The unexpended balance of any account within the county school service fund contributed by school districts for a specific purpose and from which account expenditures are made by the county superintendent of schools acting as an agent of the districts contributing to the account;

(5) The unexpended balance of the data processing and testing program account resulting from payments by school districts or other public agencies under contract with the county superintendent of schools for the furnishing of data processing and testing program services.

(6) Unexpended funds resulting from payments by school districts or other agencies under contract with the county superintendent which shall be returned to those districts or agencies at the completion of their contract.

(7) Unexpended funds resulting from payments by school districts or other agencies for costs in excess of basic state aid, state equalization aid, and local tax funds contributed to the foundation program for educationally handicapped classes or programs operated by the county superintendent, and the allowances provided by Section 41886 or 84836 or for costs other than the current expenses of such classes or programs.

14072. In addition to the amounts to be excluded in computing the balance in each of the county school service funds pursuant to Section 14071, there shall also be excluded any amounts derived from county school taxes levied and collected prior to 1935 which still remain in a county school service fund.

## CHAPTER 2. LOCAL TAXATION BY SCHOOL DISTRICTS AND COMMUNITY COLLEGE DISTRICTS

### Article 1. Determination of Tax Levies Required for School Districts and Community College Districts

14200. After approving the budget of a school district or community college district, the county superintendent of schools shall determine the amount of money which must be provided by a district tax.

14201. He shall determine this amount by deducting from the

total estimated needs of the school district or community college district as shown by its budget the total estimated income of the district from all sources other than a district tax for the current school year as estimated in the budget. The remainder, if any, shall be the minimum amount of the district tax to be levied by the board of supervisors for the particular school district or community college district.

14202. The board of supervisors shall fix such a rate for the district tax as will produce the amount of district tax money requested by the particular district.

14203. The board of supervisors shall determine the rate of district tax necessary to be levied as follows:

(a) They shall divide the amount of taxes as required to be raised by the unequalized value of the secured roll, exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code, of the last assessment roll of the district after due allowance for delinquencies. The rate shall be such as will produce the amount determined as necessary to be raised by taxation on the secured roll.

(b) Except in counties that distribute property taxes according to Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code, the allowance for delinquencies shall be fixed by determining for three consecutive years of the preceding four years the percentage that the combined amounts of taxes uncollected at the end of each year bear to the total amount of taxes levied for those years.

(c) In counties that distribute property taxes according to Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code, an allowance for subsequent additions, cancellations, and corrections affecting the tax roll shall be fixed by determining for three consecutive years of the preceding four years the percentage that the combined amounts of such items at the end of each year bear to the total amount of taxes levied for those years.

An allowance for delinquencies may be fixed for which the maximum limit is established by determining for three consecutive years of the preceding four years the percentage that the combined amounts of all county levied uncollected taxes at the end of each year bears to the amount of all county levied taxes for those years.

14204. The board of supervisors of each county or city and county shall annually at the time and in the manner of levying county or city and county taxes levy and cause to be collected a district tax for each school district or community college district whose budget shows a district tax to be necessary.

14205. If the board of supervisors refuses or neglects to make the tax levy pursuant to Sections 14200 to 14205, 42200 to 42204, and 85100 to 85114, inclusive, and Sections 14240 and 42610 or 85210, the levy shall be made by the county auditor.

## Article 2. Taxes on School Districts Located in Two or More Counties

14220. When any school district or community college district is situated partly in two or more counties the assessor of each of the counties shall annually certify to the board of supervisors of each of the counties the assessed value of all taxable property in the county situated in the district as shown by the last assessment roll of his county.

14221. The certificate of the assessor shall be made in the same manner and at the same time as is required for school districts or community college districts located wholly within the boundaries of one county.

14222. The board of supervisors of each county, after receiving the certificate of the assessor, shall thereupon determine the rate of taxation necessary to be levied upon the property in the school district or community college district situated in the county.

14223. The rate of taxation shall be sufficient to meet the proportion of taxes necessary to be raised in the county for the purpose of paying the principal and interest of the bonds of the district and all other expenses of the district as shown by the estimate of the county superintendent of schools having jurisdiction over the district.

14224. The taxes shall be assessed, levied, and collected in the same manner and at the same time as county taxes are assessed, levied, and collected.

14225. The money received shall be deposited in the county treasury of the county whose superintendent of schools has jurisdiction over the school district or community college district, and such county treasury shall be the legal depository of the district.

14226. The money deposited shall be placed in the school fund of the school district or community college district to be expended in the same manner as money of other districts.

## Article 3. Disputed Revenues of School Districts

14240. The county auditor may impound the disputed revenues of school district or community college district taxes, upon secured or unsecured property, levied and collected in the 1954-1955 fiscal year, and thereafter, whenever, pursuant to Chapter 5 (commencing with Section 5096), Part 9, Division 1 of the Revenue and Taxation Code, a claim or action is filed for the return of such revenues, or the taxes have been paid under protest. The county auditor may continue to impound such revenues until the final disposition of such claim or action. If, under such final disposition, it is determined that such taxes were properly levied against such property, the auditor shall release such revenues to the school district or community college district, and he shall thereupon immediately notify, in writing, the Superintendent of Public Instruction or board of

governors as the case may be and the State Controller of such release.

## PART 10. SCHOOL BONDS

### CHAPTER 1. GENERAL DEFINITION

15000. As used in this part, "school district" includes community college district and "Department of Education" includes the Board of Governors of the California Community Colleges.

### CHAPTER 2. BONDS OF SCHOOL DISTRICTS AND COMMUNITY COLLEGE DISTRICTS

#### Article 1. Purposes for Authorizing Bonds

15100. Except as otherwise provided by law, the governing board of any school district may, when in its judgment it is advisable, and shall, upon a petition of the majority of the qualified electors residing in the school district or community college district, order the county superintendent of schools to call an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the following purposes:

- (a) The purchasing of school lots.
- (b) The building or purchasing of school buildings.
- (c) The making of alterations or additions to the school building or buildings other than such as may be necessary for current maintenance, operation, or repairs.
- (d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity.
- (e) The supplying of school buildings and grounds with furniture, equipment or necessary apparatus of a permanent nature.
- (f) The permanent improvement of the school grounds.
- (g) The refunding of any outstanding valid indebtedness of the district, evidenced by bonds, or of state school building aid loans.
- (h) The carrying out of the projects or purposes authorized in Section 39613 or 81613.

The purchase of schoolbuses the useful life of which is at least (20) years.

The demolition or razing of any school building with the intent to replace it with another school building, whether in the same or in any other location.

One or more of the purposes enumerated, except that of refunding any outstanding valid indebtedness of the district evidenced by bonds, may, by order of the governing board entered at a meeting, be united and voted upon as one single proposition.

Notwithstanding any provision of law to the contrary, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election.

unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

15102. The total amount of bonds issued shall not exceed 5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located, and as modified pursuant to Section 41201 or 84201.

15103. Notwithstanding any other provision of law, for the purpose of computing the limit on the amount of bonds which may be issued by a district pursuant to the provisions of this chapter, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowner's property tax exemption.

15104. The bond issuance limitation in Section 15102 may, upon a favorable vote of two-thirds of the votes cast thereon in the district, be increased to not to exceed 7 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located, and as modified pursuant to Section 41201 or 84201.

All statutory references to the limitation in Section 15102 shall be deemed to refer to the limitations in Section 15102 or this section, whichever may be applicable.

This section shall remain in effect until July 1, 1975, and shall thereafter be of no force or effect, provided that the termination of the effective period of this section shall in no way be construed as affecting the validity of bonds authorized pursuant to authority afforded thereunder prior to July 1, 1975.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

15104. The bond issuance limitation in Section 15102 may, upon a favorable vote of two-thirds of the votes cast thereon in the district, be increased to not to exceed 7 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located, and as modified pursuant to Section 41201 or 84201.

All statutory references to the limitation in Section 15102 shall be deemed to refer to the limitations in Section 15102 or this section, whichever may be applicable.

This section shall remain in effect until July 1, 1975, and shall thereafter be of no force or effect, provided that the termination of the effective period of this section shall in no way be construed as affecting the validity of bonds authorized pursuant to authority afforded thereunder prior to July 1, 1975.

15105. For the purpose of the provisions of Sections 15102 and 15706 which require that the valuation as shown on the last equalized assessment roll be modified pursuant to Section 41201 or 84201, the "current year" as used in Section 41201 or 84201 shall be deemed to be the latest fiscal year for which there exists a last equalized county assessment roll as ascertained in accordance with Chapter 2 (commencing with Section 2050) of Part 3 of Division 1 of the Revenue and Taxation Code, and the term "two immediate preceding years" shall be deemed to be the two fiscal years

immediately preceding the fiscal year for which such last equalized county assessment roll exists. Whenever in any year it becomes necessary to determine the modification under Sections 15102 and 15706, at a time between the date when the assessment roll for that year becomes the last equalized county assessment roll ascertained under Chapter 3 and the date when the factor for the current year is certified and becomes available, the factor for the current year shall be deemed to be 1.00.

15106. Any unified school district may issue bonds not to exceed 10 percent of the taxable property of the district as shown by such equalized assessment of the county or counties in which the district is located.

In computing the outstanding bonded indebtedness of any unified school district for all purposes of this section, except as provided in subdivision (b) of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, and high school purposes, respectively, in the respective amounts that the proceeds of the sale of such outstanding bonds, excluding any premium and accrued interest received on said sale, were or have been allocated by the governing board of such unified school district to each of said purposes respectively.

(a) For the purposes of the State School Building Aid Law of 1952 with respect to applications for apportionments and apportionments filed or made prior to September 15, 1961, and to the repayment thereof, Chapter 6 (commencing with Section 15700) of this part, inclusive, only, any unified school district shall be considered to have a bonding capacity in the amount permitted by law for an elementary school district and a bonding capacity in the amount permitted by law for a high school district.

(b) For purposes of computing the bonding capacity of a school district under the preceding subdivisions of this section, the taxable property of the district as shown by the last equalized assessment of the county shall be modified pursuant to Section 41201 or 84201.

15107. In computing the limitation of indebtedness of any school district or community college district of any kind or class heretofore or hereafter formed or organized, hereinafter in this section referred to as the "bonding district," the outstanding indebtedness of any previously existing district all or any part of which forms a component part of such bonding district and the outstanding indebtedness of any district for which any territory which has become a part of such bonding district is liable shall be excluded and shall not be deemed, for the purposes of computing the limitation of indebtedness under Section 15102 or 15106, to constitute outstanding indebtedness of such bonding district, except to the extent that such outstanding indebtedness has been expressly assumed by such bonding district by vote of not less than two-thirds of the electors of such bonding district voting at an election at which the proposition of assuming such indebtedness is voted upon. Nothing herein contained shall operate to release any property from liability for

taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory which has become a part of such bonding district is liable and in which such taxable property is located at the time of the incurring of such indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school districts or community college districts irrespective of liability of the area embraced within such school districts for the payment of any bonded indebtedness.

15108. For the purpose of determining the limitation of indebtedness of a school district or community college districts of any type or class under Section 15102 or 15106, that portion of the bonded indebtedness of the district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the district.

15109. Where an elementary school district and a high school district with a combined average daily attendance of 300,000 or more are governed by the same governing board, and the students in grades seven and eight in the districts are in attendance at high schools maintained by the high school district, the governing board, by resolution filed with the county auditor, may provide that the bond issuance limitations determined under Section 15102 shall be adjusted by reducing the bond issuance limitation of the elementary school district by 1 percent of its total and by augmenting the bond issuance limitation for the high school district by the amount by which that of the elementary district was reduced.

15110. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

15111. (a) The governing board of each school district or community college district shall, within 30 days after the end of each fiscal year, submit to the county superintendent of schools who has jurisdiction over the school district or community college district a report containing the following information, concerning any election held pursuant to Sections 4152, 15120, 15121, and 16058 for the approval of the issuance of bonds or the assumption of any bonded indebtedness or other indebtedness:

(1) The total amount of the bond issue, bonded indebtedness or other indebtedness involved.

(2) The percentage of registered electors of the district who voted at the election.

(3) The results of the election, with the percentage of votes cast for and against the proposition involved.

(b) The county superintendent of schools of each county shall compile the information received under subdivision (a) and within

60 days after the end of each fiscal year transmit his compilation to the State Department of Education or the board of governors, whichever has jurisdiction.

## Article 2. General Provisions for Bond Elections

15120. The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4 of this division, except:

(1) As otherwise provided in Sections 15100 to 15126, inclusive.  
(2) That the formal notice of the election shall contain, in addition to the items specified in Section 5361:

(a) The purposes for which the bonds are to be issued.  
(b) The amount of the bonds.  
(c) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Sections 15140 to 15143.

(d) The maximum number of years, not to exceed 25, not to exceed which the bonds or any series thereof are to run.

No election shall be held under the provisions of this section in any school district for a period of 90 days after such an election in the same school district.

15121. Any election called pursuant to Sections 15100 to 15141, inclusive, and Sections 15142 to 15261, inclusive, may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

15122. The words to appear upon the ballots shall be "Bonds—Yes" and "Bonds—No," or words of similar import. Each elector voting at the election shall mark a cross with a rubber stamp after the answer he desires to give. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, shall be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds election.

15123. The form and details of all ballots at school district or community college bond elections shall comply with ballot provisions of this code applicable to governing board member elections with additional requirements as provided for in this chapter.

15124. If it appears from the certificate of election results that two-thirds of the votes cast on the proposition of issuing bonds of the district are in favor of issuing the bonds; or, a majority of the votes cast, if the election is held to repair, reconstruct or replace school buildings in compliance with Section 39212 or 81162 or any other provision of law; the governing board of the school district or community college shall cause an entry of that fact to be made upon its minutes. The governing board shall then certify to the board of supervisors of the county whose superintendent of schools has

jurisdiction over the district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

15125. The proceedings relating to the authorization of bonds of a joint school district of any type need be certified only to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district. Said board of supervisors may issue and sell such bonds and no action of the board of supervisors of any other county in which the district is situated shall be required in connection with such issuance and sale, and such bonds need not be signed by any officer of any such other county.

15126. No error, irregularity, or omission which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of any district are authorized to be issued shall invalidate the election or any bonds authorized.

### Article 3. Issuance and Sale of Bonds

15140. Bonds of a school district shall be offered for sale by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

15141. When authorized by the governing board of a school district or a community college district, bonds of a school district or a community college district may be offered for sale as a group by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of the school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district included in the group are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school district or a community college district in the same manner as provided in this chapter.

15142. The bonds shall be issued in such denomination or

denominations as the board may prescribe.

15143. The bonds shall not bear a rate of interest greater than 8 percent per annum, payable annually or semiannually.

15144. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof.

15145. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto, if any. Said bonds shall be signed by the chairman of the board of supervisors, or by such other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer or auditor of the county, and shall be countersigned by the county clerk or the clerk of the board of supervisors or by a deputy of either of such officers. The coupons of said bonds shall be signed by the treasurer or auditor. Unless the board of supervisors otherwise provides, all such signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of said signatures or countersignatures to said bonds shall be manually affixed. Any such signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Title 1 of the Government Code. All expense incurred for the preparation, sale, and delivery of the school bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school district or community college district issuing the bonds are legal charges against the funds of the district issuing the bonds and may be paid from the proceeds of sale of the bonds.

15146. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the district, and shall be sold at the times and in the amounts prescribed by the school district or community college district governing board, but for not less than par. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district or community college district. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

15147. Before selling the bonds, or any part of them, the board of

supervisors shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools has jurisdiction over the district, or if there is no such newspaper published in the county, in a newspaper published in some other county in the state having a general circulation in the county.

15148. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his office relative to the issuance and sale of said bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15143, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest which the district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

15149. The issuing school district or community college district by action of its governing board may prepare, or have prepared, bond brochures to serve as a prospectus for bond buyers to assist in the satisfactory sale of the bonds, the expense of such brochures to be payable out of the funds of the district. Such brochures may be prepared only after the issuance of the bonds to be sold has been approved by the electors of the district pursuant to Sections 15120 to 15126, inclusive.

The issuing school district or community college district by action of its governing board may expend district funds for the purposes of advertising the availability of the bonds for purchase in any publication or newspaper which in the opinion of the governing board will give notice to prospective bond buyers that the bonds are available for purchase by bond buyers.

#### Article 4. Required Form of Bonds

15180. Whenever under the provisions of Section 15100 and 15102, and Sections 15107 to 15140, inclusive, and Sections 15142 to 15261, inclusive, any bonds are issued, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the

bonds, and notwithstanding any language or provision to the contrary contained in any statute authorizing the issuance of the bonds, or in any other law.

15181. If any officer whose signature, countersignature, or attestation appears on any school bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

15182. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

#### Article 5. Registration of Bonds

15190. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the district is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

15191. After registration any bond may be transferred by the registered owner in person, or by attorney duly authorized, on presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again registered as before, a similar statement being stamped, printed, or written thereon.

15192. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in such cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

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Treasurer (or other officer)

15193. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

15194. The treasurer or other officer shall keep in his office a book or books which shall at all times show what bonds are registered and in whose name respectively.

#### Article 6. Cancellation of Unsold Bonds

15200. If any bonds authorized under the provisions of Sections 15100 and 15102, and Sections 15107 to 15140, inclusive, and Sections 15142 to 15261, inclusive, have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the district, for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the issuance and sale of the bonds to cause the unsold bonds to be canceled.

15201. Upon receiving the petition, signed by a majority of the members of the governing board, the board of supervisors shall fix a time for hearing it, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school district or community college district, if there is one, and if there is no newspaper published in the school district, in a newspaper published at the county seat of the county.

15202. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

15203. If the board of supervisors deem it for the best interests of the school district or community college district named in the petition that the unsold bonds be canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

15204. The governing board of any school district or community college district may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least ninety percent (90%) of the bonds authorized at such election where the amount of such remaining authorization is not more than twenty-five thousand dollars (\$25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. The provisions of Sections 15201 and 15202 shall be applicable and at or following the hearing therein provided for, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled.

Upon the entry of the order the vote by which the remaining authorization was created shall cease to be of any validity with respect to such remaining authorization.

#### Article 7. Purchase of Bonds by Issuing School Districts and Community College Districts

15220. The governing board of a school district or community college district may purchase in the open market bonds issued by the district. The cost of bonds purchased may be paid out of any funds of the district not required by law to be set aside for teachers' salaries.

15221. When any bonds issued by a district have been purchased by the governing board of the district, the bonds shall be deemed canceled and of no further validity. The governing board of the district shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

#### Article 8. Method of Bond Payment

15230. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the district has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, such times and amounts shall be fixed by the order of the board of supervisors.

Any bonds authorized at an election held after September 15, 1945, may be issued subject to call and redemption before maturity at the option of the governing board of the district. Said governing board may include in its resolution a requirement that all or any part of such bonds shall be issued subject to call and redemption before maturity and the price or prices at which said bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of said governing board and at the price or prices fixed in said resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains such a recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

15231. The board of supervisors at the direction of governing board of the district may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the

date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any part of said bonds not theretofore issued may be combined and issued and sold as one or more series.

15232. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the district to be paid out of the tax levied and collected for the payment of the bonds.

15233. The principal and interest on the bonds shall be paid by the county treasurer of the county, the superintendent of schools of which has jurisdiction of the district in behalf of which the bonds were issued, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

15234. Any money remaining in the interest and sinking fund of any district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the district upon the order of the auditor.

15235. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any district pursuant to subdivision (b) of Section 2106 or subdivision (b) of Section 2109 remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the district upon the order of the auditor, and may be used only for the purpose specified in Section 42840 or 85440 and for no other purpose.

#### Article 9. Tax for Payment of Bonds

15250. The board of supervisors of the county, the superintendent of schools of which has jurisdiction over any district, shall annually at the time of making the levy of taxes for county purposes, levy a tax for that year upon the property in the district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an

allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also such part of the principal and interest as is to become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of the principal and interest.

15251. All taxes levied, when collected shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in behalf of which the tax was levied, to the credit of the interest and sinking fund of the school district or community college district, and shall be used for the payment of the principal and interest of the bonds and for no other purpose.

15252. The board of supervisors of the county, the superintendent of schools of which has jurisdiction over any school district or community college district, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and which the governing board of the district informs the board in their belief will be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

15253. If the bonds are declared invalid or are not issued for any reason, the tax levied and collected shall, if the school district or community college district has other bonds outstanding, be retained in the interest and sinking fund of the district to meet the interest and principal falling due on such bonds. If the district has no bonds outstanding the proceeds of the tax levy shall be transferred to the general fund of the district on the order of the auditor.

#### Article 10. Tax for Payment of Bonds of School District or Community College District Located in Two or More Counties

15260. In case of a district lying in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the district is situated, the assessed value of all taxable property in the county situated in the school district or community college district. The tax shall be levied according to the ratio which the assessed value of the property in the district in any county bears to the total assessed value of the property in the district. Each board of supervisors shall levy upon the property of the district and within its own county such rate of tax as will be sufficient to raise not less than the amount needed to pay the interest and such portion of the principal of the bonds as is to become due during the year.

15261. The tax shall be entered upon the assessment roll and collected in the same manner as other school taxes.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has jurisdiction over the school, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school.

## CHAPTER 5. SCHOOL CONSTRUCTION LAW OF 1957

### Article 1. General Provisions

15500. This chapter may be cited as the "State Project Area School Construction Law."

15501. In recognition of the impact which certain major state construction projects have on local school district building needs in the areas in which such projects are constructed, the Legislature declares that it is the policy of the state to bear a proportionate share of the construction costs of school buildings in the area affected in the manner and to the extent provided by this chapter.

15502. As used in this chapter:

(a) "State project" means any construction project undertaken by the state, or the state and federal government jointly, which will cause a sudden influx of people into the area affected and where sufficient housing, schools, and other community facilities are not available. For the purposes of this subdivision the Governor is hereby empowered to proclaim any major construction project undertaken by the state as a "state project" and define the area affected or likely to be affected thereby when:

1. He finds that the construction project will cause a sudden influx of people into the area; and

2. He is requested to do so by the county board of supervisors.

Such proclamation shall be in writing and shall take effect immediately. As soon thereafter as possible it shall be filed in the office of the Secretary of State.

(b) "Board" means the State Allocation Board, created by Section 7 of the Construction and Employment Act as amended.

(c) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive, and the Board of Governors of the Community Colleges for grades 13 and 14.

(d) "Project" means the purposes for which a school district has applied for an apportionment.

(e) "Construction project" means the purposes for which a school district has applied for an apportionment at a given location.

(f) "Grade level maintained by a district" means (1) the kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district; or (2) grades 7 to 12, grades 9 to 12, inclusive, or grades 7 to

10, inclusive, maintained by a high school district or unified school district; and (3) grades 13 and 14 maintained by a high school district, unified school district, or community college district, but not more than one grade level shall be claimed by any district under any one of the subdivisions of this paragraph.

(g) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

(h) "Project children" means children of parents who have come to the district subsequent to the start of the state project and who are employed by the State of California or the federal government in connection with a state project and children of parents employed by any contractor or subcontractor of a state project.

(i) "Indirect project children" means children of parents who have come to the district subsequent to the start of the state project and who are not employed by a contractor or subcontractor of a state project but who are children in the area in addition to those which would be expected as a result of normal development and growth of the area as determined pursuant to regulations of the director which he is hereby authorized to adopt.

(j) "Parent" includes a legal guardian or other person standing in loco parentis.

(k) "Department" means the Department of Education, or board of governors within their respective jurisdictions.

15503. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

15504. A fund in the State Treasury is hereby created, to be known as the State School Construction Fund. All money in the State School Construction Fund, including any money deposited in said fund from any source whatsoever after September 11, 1957, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

## Article 2. Apportionments

15520. Apportionment from the State School Construction Fund to school districts or community college districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for the following purposes: (a) the purchase and improvement of school sites which have been approved by the department; (b) the purchase of desks, tables, chairs, and equipment, as approved by the department; and (c) the planning and construction, reconstruction, alteration of, and addition to, school buildings for such facilities as are approved by the department as essential, all of which purposes are hereby declared to be, and are, public works.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance

covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to said district out of said apportionment, or out of any apportionment made specifically covering such insurance; provided, that in other respects said apportionments are eligible for payment under provisions of this chapter.

15521. In addition to the purposes for which apportionments may be made to school districts under Section 15520, apportionments may also be made to school districts for the construction, repair, attachment or development of off-site facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

15522. In making applications for, and in expending, apportionments of funds under this chapter, a district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state. Upon the payment by the district of the amounts required to be paid by it to the state under this chapter, the board shall, in the name of the state, convey such property to the district.

15523. The board may require school districts to insure for the benefit of the state all sites, equipment and buildings which are the property of the state, against such risks and in such amounts as the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on said insurance.

15524. A district shall be eligible to an apportionment under this chapter if the estimated number of project children and indirect project children who will be in average daily attendance in the schools of the district during the period of the state project is at least 25 and is at least 5 percent of the estimated number of all children who will be in average daily attendance in the schools of the district during the current fiscal year.

15525. Any eligible school district may make application for an apportionment for a grade level which it maintains by submitting through the governing board an application therefor in such form and number as the board shall prescribe. Such application shall be addressed to the board and shall set forth a project for the construction of school facilities for the district in accordance with the provisions of this section.

(a) Each application and copy thereof shall contain and be supported by:

(1) A description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as the board may require.

(2) A statement of the estimated cost of the project certified by an architect or structural engineer.

(3) Evidence that the district has or will have title to the site upon which the facilities as specified in the application will be constructed.

(4) Assurance that the district will cause the work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence.

(b) The board shall require such changes in the plans which an applicant school district submits with its application as the board determines is necessary or desirable to assure completion of the project with available funds of the district and the amount of the apportionment to which the district is entitled under this chapter. For that purpose the board may delegate to the director or the Director of General Services, according to whether the subject matter of the revision of the plans is subject to the jurisdiction and approval of the director or the Director of General Services, the authority to require such revision in the plans as the board deems necessary or desirable to accomplish the purposes of this subdivision.

(c) Upon submission of an application for an apportionment under this chapter:

(1) The Director of General Services shall transmit a copy thereof to the director who shall as promptly as possible prepare a report and recommendation with respect thereto. Thereupon the director shall transmit his report and recommendation to the Director of General Services who shall refer them to the board if he finds them in proper form and otherwise sufficient. If the Director of General Services finds such documents to be lacking in any respect as to any matter subject to the jurisdiction of the director or the department, he shall refer them to the director who shall take such action as may be necessary.

(2) The Director of General Services shall determine the applicant district's financial ability with funds apportioned under this chapter and funds devoted by the district to the project to meet the cost of the project and submit his report thereon as promptly as possible to the board.

15526. At the next regular meeting of the board following the submission of the reports and recommendations required by Section 15525, the board shall, subject to the provisions of this chapter, approve or reject the application. If the board approves the application, it shall by resolution adopted by it, apportion to the district from the State School Construction Fund the amount applied for, or such portion thereof as the board determines proper. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 15527 is favorable. The conditional apportionment shall remain in effect for a period of nine months from the date of the resolution of the board. If the apportionment does not become final within the time prescribed, it shall become void and the money so apportioned shall again become available for apportionment pursuant to this chapter.

15527. No apportionment to a school district or community college district under this chapter shall become final, nor any agreement authorized by Section 15528 be entered into unless at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend and repay as provided in this chapter an apportionment under the provisions thereof or, with respect to said agreement, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by said agreement, or by any act of its governing board or for which it is responsible, contemplated or permitted thereby. Said election shall be called, held and conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot shall contain substantially the following words:

“Shall the governing board of the district be authorized (1) to accept and expend an apportionment from the State of California under and subject to the provisions of the State Project Area School Construction Law, a portion of which amount is subject to repayment as provided by said law, or (2) to enter into an agreement or agreements with the state pursuant to Section 15528 of the Education Code, which will at the time of such agreement or agreements (or at the time of any subsequent act of the governing board, or for which it is responsible, contemplated or permitted thereby) commit the district to a total expenditure in connection with all such agreements of not more than \_\_\_\_\_ dollars. Yes \_\_\_\_\_ No \_\_\_\_\_,” or both.

15528. In addition to the powers granted the board under this chapter, the board shall have authority (1) to make apportionments to districts for the purchase of sites only, or for the construction or purchase of temporary or portable buildings, and for the cost of site preparation, including any necessary utility costs, in connection with their utilization and (2) to establish standards in conjunction with the Department of Education or board of governors, as the case may be, pertaining to such sites and buildings as a condition for making said apportionment. In addition the board may also expend moneys from the State School Construction Fund directly for the construction, acquisition, storage, maintenance and repair of such buildings, including administrative costs related thereto. In the latter event the board may lease, sell or transfer under a lease-purchase agreement such buildings to school districts eligible for aid under this chapter, under such terms as it deems fit. Agreements pertaining thereto may provide for the payment by the state of site preparation costs, including any necessary utility costs, sufficient to permit their utilization.

Any buildings leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 39140 to 39155, or 81130 to 81145, both inclusive.

The consideration provided by any agreement between the state

and districts pursuant to this section shall as nearly as possible reflect an amount which would return to the state a fair pro rata proportion of its capital investment and expenditures connected therewith in the light of the benefits conferred by said agreement. Such consideration shall be paid by the districts promptly when due, and Section 15573 shall not be deemed applicable to reduce the same, provided that the amounts so repaid shall be redeposited in the State School Construction Fund.

Whenever the board deems it economically desirable to do so it may dispose of any facilities acquired or constructed directly by it under this section to any public or private parties under such terms and in such manner as it deems fit, save insofar as the same is inconsistent with any agreement under this section between it and an affected district. The board is authorized to do any and all things necessary to effectuate the purposes of this section, and any eligible school district is authorized to enter into an agreement with the board to carry out the purposes hereof.

No agreement shall however be entered into under this section unless the department has with respect thereto, or as a condition of making the same, approved (1) the property to be transferred, including any incidental construction pertaining thereto, (2) whether the same shall be by lease or sale, and (3) the term of the transfer, if less than a sale, including any contingent or indefinite term. The term "sale," as used in this paragraph shall be deemed to include a lease-purchase. The jurisdiction of the department shall not otherwise extend to the terms of the agreement.

### Article 3. Apportionments, Computation

15540. The board shall compute for each applicant school district the amount to which the district is entitled under the provisions of this chapter in the manner prescribed by this article. The amount so computed shall be reduced by the amount received or to be received by the district under Public Law 815 of the 81st Congress, as amended, or any similar provisions of any other act of Congress, solely on account of the participation of the federal government in the state project or shall be reduced by the percentage of the cost of the project (as such term is defined in Section 41930) borne by the federal government, whichever is the greater amount.

15541. In the computation of the apportionments to applicant school districts or community college districts, the board may utilize the facilities and services of any department or agency of the state and may delegate the performance of any duties or functions, except those specifically delegated by this chapter to the director or department, to any officer or employee thereof as the board deems necessary and proper.

15542. The board shall multiply:

(a) The estimated number of project children in the district by the current construction cost per pupil in the area of the state project.

(b) The estimated number of indirect project children in the district by the current construction cost per pupil in such area, multiplied by 55 percent.

“Current construction cost per pupil” as used in this section means the average per pupil cost of constructing complete school facilities for the grade level maintained by the district for which application for an apportionment is made under this chapter.

The total of the amounts computed pursuant to subdivisions (a) and (b) shall be apportioned to the district.

15543. (a) The average per pupil cost of constructing complete school facilities in the area of the state project for the purposes of this article shall be determined by the board, after consultation with the department and the Department of General Services, on the basis of information obtained thereby and such other information as may be available to the department.

(b) Estimates of the number of project children and indirect project children for the purpose of this article shall be made by the applicant school district in accordance with rules prescribed by the director and shall be made as of the time the greatest number of such children will attend the schools of the district as a result of the state project. Such estimates shall be made on the basis of the best information available to the district at the time of the application. Approval of such estimates by the director, in whole or in part, shall be on the basis of the best information available to the director at the time of such approval. In the approval of estimates of the number of project children and indirect project children for the purposes of this article the director may utilize the facilities and services of any department or agency of the state as he deems necessary and proper. No estimate shall be used as a basis of an apportionment that has not been approved by the director.

#### Article 4. Apportionments, Payment

15550. Immediately after the result of the election required by Section 15527 has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the State Controller. Upon the receipt by the board of the certificate, the apportionment shall become final.

15551. The election by a school district or community college district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 15527 may be called and held either before or after the making of an apportionment.

15552. Payment shall be made in accordance with the terms of a final apportionment, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the date of the proclamation of the Governor

proclaiming a state project in the area including the district, for any items approved by the board in such apportionment; provided, however, that where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for such item shall be made only upon authorization of the board by special resolution citing this section.

15553. The board shall prescribe in such detail as it deems necessary, the purposes for which moneys apportioned by it to a district under this chapter may be expended and such prescription shall be binding upon the governing board of such district except as it may be, for good cause, modified by the board.

15554. Each apportionment made by the board under this chapter shall be certified by it to the State Controller who shall thereupon draw his warrant on the State Treasury in favor of the county treasurer of the county having jurisdiction over the district. The warrant shall be paid by the State Treasurer from the State School Construction Fund and is not subject to the provisions of Section 925.6 of the Government Code.

15555. The county treasurer of each county shall pay all moneys received by him under this chapter into the county treasury to the credit of the state school construction fund of such district, which fund is hereby created, exactly as apportioned by the board.

15556. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the state school construction fund of the district only for the purposes for which said moneys were apportioned to the district and for no other purpose and shall make such reports relating to the expenditure of such moneys as the board and the State Controller shall require.

15557. It shall be the duty of the State Controller to make such audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes authorized by this chapter.

#### Article 5. Apportionments, Repayment

15570. Each school district or community college district to which an apportionment is made under this chapter shall repay the principal amount of such apportionment in the manner prescribed by this article.

15571. For purposes of computing such repayment, the state project shall be deemed completed on June 30th of the fiscal year in which the state project is completed and accepted by the state.

15572. The principal amount of the apportionment shall be

computed and repaid in the manner prescribed in this article.

(a) On or before the first day of January succeeding the completion of the state project, the State Controller shall compute the annual repayment of each apportionment for each grade level maintained by the district, as follows:

(1) He shall determine from the certification of the director the total amount of average daily attendance of project children, and the total amount of average daily attendance of indirect project children, in attendance in the grade level maintained by the district for the period commencing with the date of the proclamation of the Governor proclaiming the existence of a state project in the area including the district and ending on June 30th of the fiscal year in which the state project is completed.

(2) He shall divide the average daily attendance of such project children by 30 and multiply the quotient by the amount determined by the board pursuant to Section 15543 as the average per pupil cost of construction in the area of the state project.

(3) He shall multiply the average daily attendance of such indirect project children by 55 percent. The product shall be divided by 30 and the quotient multiplied by the amount determined by the board pursuant to Section 15543 as the average per pupil cost of construction in the area of the state project.

(4) The total of the amounts computed pursuant to subdivisions (2) and (3) shall be subtracted from the amount of the apportionment to the district. The remainder shall be divided by 30 and the quotient shall constitute the amount of the annual repayment of such apportionment.

(5) Upon application of the district and approval by the board, the total amount of the repayment may be paid in a lump sum or in fewer than 30 years.

15573. If on June 30th of the fiscal year in which the state project is completed there is classroom space constructed with funds apportioned under this chapter, that is not being used by the district, the board shall, upon application of the district, reduce the total amount to be repaid by the district on a proportionate basis until such time as the classroom space is used by the district. No payment shall be required by the district for the period during which such classroom space is not used by the district.

15574. The State Controller shall, during the fiscal year in which he determines the annual repayment as provided in Section 15572, and for each subsequent fiscal year not exceeding 30, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund under Sections 46304, 46305, 84503, 84504, and 92 or 41050, Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, both inclusive, whichever are in effect, and, on order of the State Controller, the amount so deducted shall be transferred to the General Fund of the state.

15575. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during such fiscal year, the State Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

15576. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the State Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the next levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money withheld by the State Controller during the fiscal year preceding that in which the tax is levied. Such tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

15577. Notwithstanding the provisions of Section 15572 to the contrary, if on or before June 30th of the fiscal year in which the state project is completed the district has received a final apportionment under Sections 16000 to 16207, inclusive, or if at any time thereafter the district receives a final apportionment under Sections 16000 to 16207, inclusive, the amount of the apportionment to the district under this chapter then remaining unpaid shall, upon request of the district, be added to the principal amount of the apportionment made to the district under Sections 16000 to 16207, inclusive. Thereupon the apportionment made to the district under this chapter shall be deemed to be an apportionment made to the district under Sections 16000 to 16207, inclusive, and subject to repayment in the manner therein prescribed, except that no interest shall be charged or collected upon the amount which is added to the principal amount of the apportionment made to the district under Sections 16000 to 16207, inclusive. For the purposes of Section 16083, any amount added to the principal amount of an apportionment pursuant to this section shall be deemed to have become final and disbursed to the district on the date the state project is deemed completed pursuant to Section 15571.

#### Article 6. Miscellaneous

15590. In addition to such other powers and duties as are granted the board by this chapter, the board shall:

(a) Establish such procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter as it deems necessary and which are not in conflict with the powers and duties of the Department of Education or of the director granted or imposed by this chapter.

(b) Adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

15591. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the State School Construction Fund.

15592. Whenever the State Controller determines that any money apportioned to a school district under this chapter has been expended by such district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the State Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of such unauthorized expenditures, or the amount of such excess apportionment, as the case may be. Upon receipt of such notice, such governing board shall order the county treasurer to pay to the State Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in such notice. Such amount shall, upon order of the State Controller, be deposited in the State Treasury to the credit of the State School Construction Fund, to be reapportioned by the board.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

## CHAPTER 6. STATE SCHOOL BUILDING AID LAW, 1949

### Article 1. General Provisions

15700. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid school districts of the state in providing necessary and adequate school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this act, the Legislature considers that the great need in school construction is for adequate classrooms for the education of the pupils of the public school system. It is the intent of the Legislature to first satisfy this primary need to the greatest extent possible before providing additional educational facilities, regardless of how desirable such additional facilities may be. To the end that

school classrooms may be made available at once and to all school districts in need of such classrooms, provisions for other needed school facilities is necessarily subordinated.

15701. As used in this chapter:

(a) "Board" means the State Allocation Board, created by Section 7 of the Construction and Employment Act as amended.

(b) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive, and the Board of Governors of the California Community Colleges for grades 13 and 14.

(c) "Project" means the purposes for which a school district has applied for an apportionment under this chapter.

(d) "Grade level maintained by a district" means (1) the kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district; or (2) grades 7 to 12, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district; and (3) grades 13 and 14 maintained by a high school district, unified school district, or community college district, but not more than one grade level shall be claimed by any district under any one of the subdivisions of this paragraph.

(e) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

15702. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

15703. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board in an advisory capacity shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the Public School Building Loan Fund.

15704. The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on sudden growth in attendance, on amount of local tax funds expended for housing of a character within the purposes of this chapter, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

In adopting rules the board may provide for the granting of priority points to govern the allocation according to the following schedule:

(a) Two priority points may be granted for each percent of the latest computed average daily attendance of the district that is inadequately housed. The number of inadequately housed students is the latest computed average daily attendance of the district less

the sum of (1) any classrooms up to a total of two, multiplied by 25, and (2) any classrooms in excess of two, multiplied by 33. The term "classrooms" (for the purposes of this computation) shall mean any school classrooms, temporary and permanent, determined by the Department of Education to be safely usable.

(b) One priority point may be granted for each 5 percent of the latest computed average daily attendance of the district that represents an increase over the average daily attendance for the fifth preceding school year.

(c) One point of priority may be granted for each one-twentieth of 1 percent of the assessed valuation of the district, collected in taxes and expended for school housing within the scope of this chapter since July 1, 1944. Expenditure of the proceeds of the sale of bonds shall not be counted but expenditure for interest and retirement of bonds shall be counted.

(d) Not more than one point of priority shall be allowed for each calendar month that the completed application of the district has awaited funds.

If any computation of priority points made under this section results in a fraction of a point, such fraction shall be disregarded and the number of priority points shall be taken as the next lowest whole number.

These priorities shall be recomputed at least semiannually when funds are available for allocation, on the respective periods of time next preceding the date of computation. The State Department of Education representing kindergarten and grades 1 to 12, inclusive and the Board of Governors of the California Community Colleges representing grades 13 and 14 shall assist and cooperate with the board in determining priority ratings.

15705. In addition to such other powers and duties as are granted the board by this chapter, the board shall (1) establish such qualifications not in conflict with other provisions of this chapter as it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter; (2) establish such procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter as it deems necessary and which are not in conflict with the powers and duties of the Department of Education, or the Board of Governors of the California Community Colleges or of the director granted or imposed by this chapter; and (3) adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

15706. Apportionment from the Public School Building Loan Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for the following purposes: (a) the purchase and improvement of school sites which have been approved by the State Department of Education, or the Board of Governors of the

California Community Colleges; (b) the purchase of desks, tables, chairs, and built-in or fixed equipment, as listed in Part III of the California School Accounting Manual contained in the Bulletin of the California State Department of Education, Volume XIII, No. 2, June, 1944, or as amended or revised; and (c) the planning and construction, reconstruction, alteration of, and addition to, school buildings for such facilities as are approved by the Department of Education or the Board of Governors of the California Community Colleges as essential, all of which purposes are hereby declared to be, and are, public works.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the costs thereof may be paid either directly, or by way of reimbursement, to said district out of said apportionment, or out of any apportionment made specifically covering such insurance; provided, that in other respects said apportionments are eligible for payment under provisions of this chapter.

15707. In addition to the purposes for which apportionments may be made to school districts under Section 15706, apportionments may also be made to school districts for the construction, repair, attachment or development of off-site facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

15708. In making application for, and in expending, apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state. Upon the payment by the district of the amounts required to be paid by it to the state under this chapter the board shall, in the name of the state, convey such property to the district.

15709. The board may require school districts to insure for the benefit of the state all sites, equipment and buildings which are under Section 15708 the property of the state, against such risks and in such amounts as the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on said insurance.

15710. Where a district is required by a contract entered into between itself and a general construction contractor to obtain, at its own expense, insurance covering risks incurred during any construction for which an apportionment has been made, the cost thereof may be paid directly to said district out of the Public School Building Loan Fund.

It is the intent and purpose of this section to provide for

reimbursement to such school districts for all such builders' risk insurance as may have been furnished and paid for by such districts in connection with approved apportionments from the Public School Building Loan Fund from the time of the effective date of Chapter 1389 of the Statutes of 1949.

The Legislature in adopting this section expressly recognizes that eligible school districts in making provision for builders' risk insurance during the period of construction of new buildings has provided a saving for the taxpayers of such district, and also has reduced the amount which otherwise would have been paid out of the Public School Building Loan Fund to such district if the cost of such builders' risk insurance had been borne by the contractor with the district; for this reason the Legislature hereby finds, determines and declares that the adoption of this section having an effect retroactive to the effective date of said Chapter 1389 of the Statutes of 1949 is therefore lawful, proper and represents the saving of public funds for a lawful and public purpose.

The Controller of the State of California is hereby authorized and directed to cancel and annul any claims or demands against such school district arising out of, or in any way connected with, claims for reimbursement from such school districts to the Public School Building Loan Fund arising out of the direct purchase of builders' risk insurance on any construction by any such school district under an approved application by the board.

15711. A school district or community college district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

15712. Funds apportioned to a school district or community college district under this chapter for a project, remaining unencumbered or unexpended one year from the date the application of the district for such apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend such funds. The board shall immediately request the Department of Education or the Board of Governors for the California Community Colleges to, and that department shall, review the project for which apportionment was made. If the Department of Education or the Board of Governors for the California Community Colleges finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in such manner as it deems necessary, subject to the provisions of Section 15727, and make such changes in the purposes for which the apportionment may be expended as it deems necessary. The cost of

the project as revised by the board shall be computed in the manner prescribed by Section 15713 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the State Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the public school building fund of the district. If the amount of such excess, or any portion thereof, has not been paid to the district, such excess, or portion thereof, shall be made available for apportionment to other districts. If such excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay such amount to the State Treasurer, out of the funds, and in the manner specified in Section 15752. Such payment shall, on order of the State Controller, be deposited in the Public School Building Loan Fund in the State Treasury.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a district.

15713. Each school district or community college district which desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in such form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire project for which the district desires an apportionment. Estimates of cost for new construction appearing in an application shall not exceed typical current costs of comparable new construction by school districts in the same area not receiving or not eligible for apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by districts in the area, the estimates of cost shall not exceed the reasonable current cost of similar construction in the area as determined by the Director of General Services. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A district may at any time amend or supplement its application.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount which the district can contribute toward the cost of the project out of its available funds, and shall submit his report thereon to the board.

The directors shall as promptly as possible prepare a report and recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he finds said documents to be in proper form and otherwise sufficient, refer them to the board. If the Director of General Services finds said documents to be lacking in any respect as to any matter which is subject to the jurisdiction or approval of the director or Department of Education, or Board of Governors of the California Community Colleges, he shall refer to them to the director who shall take such action as may be necessary. The board shall, subject to the provisions of this chapter approve or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Public School Building Loan Fund the amount applied for, or such portion thereof as the board may deem appropriate; provided, that it may order that the apportionment or any part thereof shall be paid in progressive installments at such times and under such conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 15721 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of nine months from the date of said resolution of the board, and if it does not become a final apportionment by the date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

The board may for such good cause as it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a district under the terms of an apportionment, other than any contribution required of such district under Section 15721 from the sale of bonds; provided, that the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

15714. When an apportionment has been made by the board to a school district the board may, upon application of the governing board of such district, authorize the governing board to transfer funds from other authorized purposes if more than one purpose has been authorized in the district by the board, or to make additional apportionments to the district, or both, if the board determines that such additional apportionments or transfers are necessary to meet the actual cost of the specific school plant facilities or sites for which the original apportionment was made. An apportionment made under this section shall be final if the original apportionment has

become final, otherwise it shall become final if and when the original apportionment becomes final.

All provisions of this chapter shall apply to apportionments made under this section, except Sections 15713, 15721, 15722, 15725, and 15726 exclusive of the second paragraph of said Section 15726 and such other provisions as may relate to application and eligibility for apportionments.

15715. The board may approve, in whole or in part, an application submitted by a school district under Section 15713 and in such amount, not exceeding the amount applied for, as the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount determined by the board as aforesaid, to the applicant school district from the Public School Building Loan Fund for such portion or portions of the project as the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments within two years after the original approval without requiring a district to issue additional bonds.

The total of the amounts of applications as approved by the board under this section shall not, when added to all amounts apportioned to school districts by the board under Section 15713, exceed 90 percent of the total amount of state school building bonds authorized to be issued and sold by Section 2 of Article XVI of the Constitution of the state.

Except as otherwise provided in this section, all provisions of this chapter relating to apportionments shall apply to apportionments made under this section.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

15716. If, after a conditional apportionment has been made to a school district, legal proceedings initiated prior or subsequent to the making of such conditional apportionment prevent the taking, within the period during which the conditional apportionment remains effective under Section 15713, of the actions necessary to permit the conditional apportionment to become final, the conditional apportionment shall nevertheless remain effective for a period of nine months from the date upon which such legal proceedings are finally determined. The amount of the apportionment may be diminished by the board after a second investigation at which the board shall determine whether conditions existing at the time it approved the project for which apportionment was made have so changed that the needs of the district are less than

originally determined and if so the conditional apportionment shall be reduced by a corresponding amount.

15717. With respect to any apportionment made to a school district prior to December 26, 1950, the board may, on the application of the governing board of said district make additional apportionments to the school district for the purchase of such furniture as is authorized by Section 15706. An apportionment made under this section shall be final if the original apportionment has become final; otherwise it shall become final if and when the original apportionment becomes final.

All provisions of this chapter shall apply to apportionments made under this section, except Sections 15713, 15721, 15722, 15725, and 15726, exclusive of the second paragraph of said Section 15726, and such other provisions as may relate to applications and eligibility for apportionments.

15718. The sum of two million dollars (\$2,000,000) was by Chapter 13 of the Statutes of 1952 (First Extraordinary Session) made available from the Public School Building Loan Fund for apportionment by the board pursuant to this chapter, except as otherwise provided by this section and to be transferred by the Controller as needed into a separate account in the State School Building Fund which was created in the State Treasury.

Apportionments made under this section shall be available as grants to those school districts to which apportionments have been made under this chapter, prior to April 1, 1952, and only for such amounts thereof as are in excess of the apportionments the voters of such districts voted to accept and repay under Section 15721, 15722, and 15723.

If and when the electors of districts receiving apportionments under this section, vote to accept and repay additional amounts under Sections 15721, 15722, and 15723, the board may make apportionments under other sections of this chapter in substitution in whole or in part of the grants made under this section.

In the event the electors of the district fail to vote to accept and repay such additional amounts or if apportionments covering such amounts are not made under other sections of this chapter, beginning in September, 1953, and annually for nine years thereafter, apportionments made to such districts from the State School Fund under Sections 46304, 46305, 84503, 84504 and 92 or 41050, Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, both inclusive, whichever are in effect, or any successor thereof, shall be reduced by an amount equivalent to one-tenth of the amount apportioned under this section. This section shall not be applied so as to reduce any average daily attendance apportionment below the constitutional minimum. During the year beginning September, 1953, and each year thereafter in which the Controller determines that the apportionment of any district is to be reduced as herein provided, he shall deduct the total amount of the annual repayment of each

district in equal amounts from each installment of the apportionments made to such district; and the amount so deducted shall, on order of the Controller, be transferred from the State School Building Fund to the General Fund at the time and for the purpose provided in Section 15903.

Notwithstanding any other provision of law, taxes in such districts shall be increased sufficiently to offset the amounts by which such average daily attendance apportionments are reduced under this section. Such tax increases shall be made in the manner prescribed under Section 15742 of this chapter.

Any amounts made available by this section which are not apportioned by June 30, 1953, and any recovery by substitution of apportionments made in accordance with this section shall be transferred to the Public School Building Loan Fund.

15719. No apportionment shall be made for new construction which when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per pupil of the estimated enrollment in excess of that computed under the following schedule:

Type of school	Enrollment	Square feet per pupil
Elementary school comprising kindergarten and grades 1 to 6, inclusive..	300 or more	55
Elementary school comprising grades 7 and 8 .....	750 or more	75
Junior high school comprising grades 7 to 9, inclusive.....	750 or more	75
Junior high school comprising grades 7 to 10, inclusive.....	750 or more	75
High school comprising grades 7 to 12, inclusive.....	750 or more	80
High school comprising grades 9 to 12, inclusive.....	750 or more	80
High school comprising grades 10 to 12, inclusive.....	750 or more	80
Community college comprising grades 13 and 14 .....	750 or more	80
Community college comprising grades 11 to 14, inclusive.....	750 or more	80

The maximum total building areas per pupil allowed to applicants having schools with smaller estimated enrollments than shown in the above schedule shall be determined by the Department of Education, or the Board of Governors of the California Community Colleges and shall be building areas to provide comparable facilities to those enumerated above, and shall be the least building area

required to house adequately the estimated enrollment and the normal instructional and other services.

No estimate of enrollment made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the second fiscal year beyond the fiscal year in which an application is made, and in no case shall be given effect unless approved by the Department of Education, or the Board of Governors of the California Community Colleges.

15720. Payment shall be made in accordance with the terms of a final apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to December 5, 1949, for any items approved by the board in such apportionment; provided, however, that where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for such item, either with state funds or with district funds which the district is required to contribute by said apportionment, shall be made only upon authorization of the board by special resolution citing this section.

15721. No apportionment to a school district or community college district shall become final unless: (a) the total amount of outstanding bonds of the district exceeds ninety-five percent (95%) of the maximum amount of bonds which the district could have had outstanding under any law on the date the conditional apportionment is made, or (b) if the total amount of the bonds of the district outstanding and unpaid is less than ninety-five percent (95%) of the amount of the bonds permitted to be issued by the district, the amount of district bonds outstanding is within twenty-five thousand dollars (\$25,000) of the total bond limit permitted, as of the date on which the conditional apportionment is made. At the time the board makes a conditional apportionment pursuant to Section 15713, it shall determine what portion of the total amount of bonds which a district is permitted to issue and sell by law shall be issued and sold by such district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought. The portion so determined by the board shall be not less than the minimum amount required for such apportionment to become final under this section. Any apportionment made by the board pursuant to Section 15713 shall be conditioned upon the approval and sale of such bonds by the district.

No apportionment to a district shall become final unless, at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board of the district to accept, expend, and repay, as provided in this chapter, an apportionment under the provisions of this chapter. Such election shall be combined with and held at the same time as the bond election to authorize the amount of bonds required by the board, if any, and shall be called, held, and

conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot, in addition to the bond proposition, shall contain substantially the following words:

"Shall the governing board of the \_\_\_\_\_ school district be authorized to accept and expend an apportionment in an amount not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_) from the State of California under and subject to the provisions of Chapter 6 (commencing with Section 15700) of Part 10 of Division 1 of Title 1 of the Education Code which amount is subject to repayment as provided by said chapter? Yes \_\_\_\_\_ No \_\_\_\_\_."

15722. Immediately after the result of the election has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the bonds have been authorized in the amount prescribed by the board and whether the school district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the State Controller. When the bonds authorized have been issued and sold and the proceeds thereof made available for the purposes of the application, the county superintendent of schools shall also certify this fact to the board and the State Controller. Upon the receipt by the board of the certificate stating that the bonds have been issued and sold and the proceeds thereof made available for the purposes of the application, the apportionment shall become final.

15723. The election by a school district or community college district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 15721 may be called and held either before or after the making of an apportionment.

All such elections held prior to October 13, 1950, whether before or after the making of an apportionment, are hereby validated and confirmed if otherwise called and held pursuant to law.

15724. Whenever a conditional apportionment has been made, and the county auditor has inadvertently and erroneously included in his certification of the outstanding bonded indebtedness of the school district or community college district the bonded indebtedness of another school district having the same, or substantially the same, boundaries, which bonded indebtedness is less than two percent (2%) of the total amount of the total bonded indebtedness certified, and thereafter an election upon the issuance of new bonds in the amount required by the board has been had and the vote thereon has been in favor of the issuance of the bonds, and the board has certified to the State Controller that the apportionment to the district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Any bonds erroneously certified, however, shall not be taken into consideration in making the computation required by Section 15721.

15725. No apportionment shall be made to a school district for any grade level if the estimated cost of the project, as approved by the Director of General Services, is (1) an amount which would result in an apportionment to the district exceeding the amount authorized at the district election held under Section 15721, or (2) is an amount which if raised by the issuance and sale of bonds of the district running for 25 years bearing the current going rate of interest as determined by the board and the principal of which is payable in 25 equal annual payments, would require the levy of a tax under Section 15250 upon property in the district which would, when added to the tax actually being levied upon property in the district for the grade level as determined by the Director of General Services under said section, amount to less than thirty cents (\$.30) on each one hundred dollars (\$100) of assessed valuation of property in the district during the next fiscal year.

At the time the board makes an apportionment, it shall, with the approval of the Director of General Services, fix the interest to be paid by the district on the sum apportioned to it at a rate equal to the effective rate paid by the state upon the bonds sold from the proceeds of which the apportionment is made, giving effect to the price at which the bonds are sold and the premium, if any, paid thereon, adjusted to the next highest one-eighth of 1 percent, to cover the cost of sale and issuance of the bonds and costs of administration, to be compounded annually through the 30th day of June of each year.

15726. As used in Section 15725 of the Education Code, the phrase "adjusted to the next highest one-eighth of 1 percent" means "increased by a full one-eighth of 1 percent." It is hereby declared that this construction is not intended as a change in the present law, but as a declaration of the existing law, and shall apply to any interest rate heretofore or hereafter fixed by the board under said section.

15727. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the Department of Education or the Board of Governors of the California Community Colleges.

15728. Each district to which an apportionment has been made under this chapter shall repay the principal amount of such apportionment and the accrued interest thereon in the amount and in the manner hereinafter provided in this chapter.

15729. The following definitions apply to the computations and determinations required to be made under Sections 15730, 15732, and 15733, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of forty cents (\$0.40) on each one hundred dollars (\$100) of assessed valuation, excluding the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district;

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of thirty cents (\$0.30) on each one hundred dollars (\$100) of such assessed valuation; and

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of ten cents (\$0.10) on each one hundred dollars (\$100) of such assessed valuation.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the date of the first final apportionment for such grade level to said district under the provisions of this chapter, computed as provided in Section 15730.

15730. On or before the first day of December of each fiscal year, the Director of General Services shall determine for each grade level and certify to the State Controller the eligible bonded debt service for the district, as follows:

(a) He shall determine the amount of the bonded indebtedness that was incurred by the district for each grade level, when bonds were issued and sold for purposes of more than one grade level. When one or more additional apportionments have been made to a grade level of a district, conditioned upon the issuance and sale of additional bonds of the district, the Director of General Services shall determine and include in the eligible bonded debt service and in his certificate the amount raised and to be raised by the district during the current fiscal year for the payment of principal and interest on that portion of the additional bonded indebtedness of the district that was incurred for each such grade level as a condition to receiving such additional apportionment.

(b) If the Director of General Services determines in any fiscal year that the amount certified to the State Controller as the eligible bonded debt service during the last preceding fiscal year is more than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 15729 and subdivision (a) of this section, then the Director of General Services shall subtract from the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of such bonded indebtedness and the amount so certified by the Director of General Services.

(c) If the Director of General Services determines in any fiscal year that the amount certified to the State Controller as the eligible bonded debt service during the last preceding fiscal year is less than

the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 15729 and subdivision (a) of this section, then the Director of General Services shall add to the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of such bonded indebtedness and the amount so certified by the Director of General Services.

15731. Notwithstanding any other provisions of this chapter, a school district otherwise eligible to receive a conditional apportionment under Chapter 8 (commencing with Section 16000) of this part may apply for an adjustment of annual repayment obligations under this chapter.

The board may require such information as is necessary to determine the number of units of estimated average daily attendance for which the district would have been eligible to construct school facilities under this chapter, if such conditional apportionment had been made and had become final. Such units shall be known as "eligible attendance units". The board shall then determine an "eligible facilities cost" by multiplying the number of such eligible attendance units by the average cost of housing elementary or high school pupils as set forth in the latest report to the Legislature required under Section 16098.

In any fiscal year in which the school district is, in the judgment of the board, operating sufficient year-round classes to provide housing for the eligible attendance units, the Director of General Services shall add to the amount which he is required to certify to the Controller under Section 15730 an amount equal to one-twentieth of such eligible facilities costs.

The additional amount so certified shall be considered for all purposes of this article as eligible bonded debt service.

15732. On or before the first day of January of each fiscal year, the State Controller shall compute for each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year the 40-cent tax amount, the 30-cent tax amount and the 10-cent tax amount.

15733. On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year, as follows:

(a) If, for any grade level of a district, the amount of the eligible bonded debt service exceeds the 40-cent tax amount, no annual repayment shall be due the state from such district with respect to such grade level during the next succeeding fiscal year.

(b) If, for any grade level of a district, the 40-cent tax amount is greater than the eligible bonded debt service, the amount of such excess shall constitute the annual repayment due the state with respect to such grade level during the next succeeding fiscal year;

except that if the eligible bonded debt service is less than the 10-cent tax amount, the annual repayment shall equal the 30-cent tax amount.

(c) The total repayment from each district is the sum of the annual repayments determined for each grade level of the district under this section.

15734. Notwithstanding any other provision of this chapter, and regardless of how many apportionments are made to a grade level of a school district under the provisions of this chapter, the total annual repayment for such grade level during any fiscal year, covering all such apportionments, shall not exceed the amount that would be computed under Sections 15729 to 15735, inclusive, for any one of such apportionments.

15735. The State Controller shall, during the next fiscal year following that in which he determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund under Sections 46304, 46305, 84503, 84504, and 92 or 41050, Sections 41330 to 41343 or 84320 to 84332, both inclusive, and Sections 41600 to 41972, or 84700 to 84784, both inclusive, whichever are in effect; and, on order of the State Controller, the amount so deducted shall be transferred to the Public School Building Loan Fund. All money transferred to the Public School Building Loan Fund under the provisions of this section shall be available only for transfer to the General Fund under the provisions of Section 15903.

15736. Notwithstanding any provision of law to the contrary, whenever in any fiscal year, pursuant to Chapter 5, Part 9, Division 1 of the Revenue and Taxation Code, a refund is made or a judgment rendered, as the case may be, for the return of an amount collected as school district taxes levied during a previous year upon secured or unsecured personal property, because it was determined that such property was exempt from taxation, and such property so determined to be exempt equals 1 percent, or more, of the assessed valuation in the school district upon which school district taxes for such previous year were levied, the Controller shall reduce the annual repayment of the district and the amount deducted from the State School Fund apportionment of such district for the fiscal year next succeeding that in which such refund was made or judgment rendered, by that amount by which the annual repayment and deduction of the district would have been reduced for the fiscal year next succeeding that in which such taxes were levied had the assessed valuation upon which such annual repayment was computed not included an amount of assessed valuation equal to the amount of assessed valuation of the property so determined to be exempt.

The amount of annual repayment and deduction, reduced as required by this section, shall be the amount deducted by the

Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which such reduction is made.

15737. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 15732 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954-1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. If such a request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954-1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955-1956 fiscal year on the basis of such reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 15741 of such recomputed annual repayment for the 1955-1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to such district during the 1955-1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction, the Board of Governors of the California Community Colleges and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district, for the first fiscal year or second fiscal year next succeeding that in which such notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which such increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a) hereof, Section 15736 shall not apply with respect to any tax revenues to which subdivision (a) applies.

15738. The State Controller shall make the deduction provided by Section 15735 during each fiscal year, as herein provided, until the principal amount of the apportionment made to the district for such grade level, and all accrued interest due thereon, has been withheld; but no interest shall accrue or become due and payable to the state with respect to the principal amount of any such apportionment after the expiration of 25 years from the first day of July of the fiscal year next succeeding the date of the warrant issued by the State Controller covering the payment to the county treasurer of each portion of such apportionment. At the expiration of 30 years from the

first day of July of the fiscal year next succeeding the date of the warrant issued by the State Controller covering the payment to the county treasurer of each portion of such apportionment, any unpaid balance of the principal amount of any such apportionment, including all interest included in such principal amount, shall be canceled on the books of the State Controller, and the state shall have no further right to the repayment of such unpaid balance.

15739. The State Controller shall certify to the board the cancellation of the unpaid balance of the principal amount of such apportionment; and upon receipt of such certification, the board shall, in the name of the state, convey to the district all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to, from moneys provided by the apportionment covered by such cancellation.

15740. The State Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to each grade level of a district under the provisions of this chapter. He shall compute interest on the original amount of the apportionment at the rate fixed by the board, from the date of issuance of the State Controller's warrant covering the payment to the county treasurer of any portion of the apportionment until the first day of July of the fiscal year next succeeding that in which such warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to such apportionment through the 30th day of the following June of each year, until the principal and interest have been paid, or until the interest ceases to accrue, as provided in this chapter. Interest on unpaid school building aid apportionments shall be computed as if the annual repayment were credited on the first day of July of the fiscal year in which such repayment is withheld.

15741. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the State Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

15742. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the State Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the State Controller during the fiscal year in which the tax is levied. Such tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

15743. The board shall prescribe in such detail as it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and such prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for such cause as it sees fit. In determining funds which can be contributed by the district, the board may require the district to contribute unexpended balances of funds earmarked or encumbered by the district for furniture, equipment, or any other lawful purpose; provided, however, that changes or substitutions in the purposes for which such funds were earmarked or encumbered, with respect to such requirement under any apportionment heretofore or hereafter made, may be authorized by the board, or pursuant to its delegation, by the Director of General Services.

15744. Unless the board has received the certificates of the county superintendent of schools required by Section 15722 within nine months from the date of the conditional apportionment, it shall, at the expiration of said nine months' period, void said conditional apportionment and shall certify this fact to the State Controller. Each final apportionment made by the board under this chapter shall be certified by it to the State Controller who shall from time to time draw his warrant on the State Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of such final apportionment. The warrant shall be exempt from the provisions of Division 4 of Title 2 of the Government Code and shall be paid by the State Treasurer from the Public School Building Loan Fund.

15745. A public school building fund is hereby created in the county treasury in each county for each school district or community college district in such county. The county treasurer of each county shall pay into the public school building fund of each district, exactly as apportioned by the board, all moneys received by him under this chapter with respect to each such district.

15746. The governing board of each school district or community college district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the Public School Building Fund of the district from all other funds of the district in which such moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which such apportionment was made.

15747. A fund in the State Treasury is hereby created, to be known as the Public School Building Loan Fund. All money in the Public School Building Loan Fund, including any money deposited in said fund from any source whatsoever after July 29, 1949, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

15748. Notwithstanding any provision of law to the contrary, the

State Allocation Board may from time to time by appropriate resolution order the transfer from the Public School Building Loan Fund to the State School Building Aid Fund of any amounts therein which it deems no longer desirable to retain for the purposes of this chapter and Sections 15900 to 15913, inclusive; providing, that nothing herein shall be deemed to apply to any moneys heretofore or hereafter deposited in the Public School Building Loan Fund by virtue of Sections 15735 and 15907, and former Section 5107 as added by Chapter 922 of the Statutes of 1949, and as subsequently amended; or to any moneys appropriated from the Public School Building Loan Fund by virtue of the Budget Acts of 1954 and 1955, and which remain available for expenditure. Upon such order or orders the Controller shall make appropriate transfers, and any sums so transferred shall be available for apportionment in the same manner as other moneys in the State School Building Aid Fund, except that to the amount available for apportionment on the fifth day of each month pursuant to Section 16409, there shall be added any amount transferred to the State School Building Aid Fund by virtue of this paragraph prior to the fifth day of the preceding month. Notwithstanding the provisions of Section 15904, after July 7, 1955, there shall be no further transfers to the General Fund from the Public School Building Loan Fund of any amounts deposited therein by virtue of Sections 15752, 15753, and 15754.

15749. The governing board of each school district or community college district to which an apportionment has been made under this chapter shall expend the moneys in the Public School Building Fund of the district exactly as apportioned by the board and only for the purposes for which said moneys were apportioned to the district, and for no other purpose, and shall make such reports relating to the expenditure of such moneys as the board and the State Controller shall require.

15750. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

15751. It shall be the duty of the State Controller to make such audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

15752. Whenever the State Controller determines that any money apportioned to a school district has been expended by such school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be

paid therefrom, the State Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of such unauthorized expenditures, or the amount of such excess apportionment, as the case may be. Upon receipt of such notice, such governing board shall order the county treasurer to pay to the State Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in such notice. Such amount shall, upon order of the State Controller, be deposited in the State Treasury to the credit of the Public School Building Loan Fund.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

If, upon petition of the district, the State Controller determines that the amount is in excess of the amount that may be paid out of taxes levied at the maximum rate increased by any increase in such rate authorized by the electors of the district pursuant to Section 42202 or 85112, without impairing essential district services, he may provide for the payment of the entire amount or any unpaid balance thereof in not exceeding three consecutive annual payments, commencing with the next school year. Each payment shall be an equal portion of the principal amount, plus accrued interest, and shall be paid not later than January 31st of each school year in which a payment is due. If the district fails to make the payment as specified, the State Controller shall deduct the amount thereof from the February payment made to the district under the provisions of Section 14041.

Deferred payments under this section shall bear interest at the same annual rate of interest as the apportionment from which the unauthorized expenditures or the amounts of excess apportionment were made.

15753. Any portion of an apportionment paid to a school district under this chapter shall be available for expenditure by its governing board for not less than one year nor more than three years, as the board shall determine, after the date on which the warrant covering such portion of the apportionment was issued by the State Controller. For the purposes of this chapter, an apportionment shall be deemed to be expended at the time and to the extent that the amount thereof on deposit in the county treasury has been encumbered by the creation of a valid obligation on the part of the school district. Upon the expiration of its period of availability, the unencumbered balance of any apportionment made under this chapter shall become due and payable to the State of California; and the governing board of the school district and the county treasurer

shall pay the amount of such unencumbered balance to the State Treasurer, out of the funds, and in the manner specified in Section 15752. Such payment shall, on order of the State Controller, be deposited in the Public School Building Loan Fund in the State Treasury.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

15754. Whenever a school district receives an apportionment under this chapter for the purchase or improvement of a school building site and within a period of five years after the date on which the warrant covering the appropriate portion or portions of the apportionment was drawn on the State Treasurer from the Public School Building Loan Fund, (1) sells or otherwise disposes of such site or the improvements thereon, or any portion thereof, purchased or improved in whole or in part from such apportionment, or (2) within not less than one year nor more than five years, as the board shall determine, does not begin to use such site or the improvements thereon for the purpose or purposes for which said apportionment was made, the board shall make such determinations and take such action with respect thereto as it may deem necessary. If the board determines that the district has (1) sold or otherwise disposed of the site or the improvements thereon, or any portion thereof, or (2) has not used the site for the purpose for which the apportionment was made, it shall demand the return of the apportionment or such portion thereof as it deems proper.

Written notice of such demand, setting forth the amount due the state pursuant thereto, shall be furnished by the board to the governing board of the school district, the county superintendent of schools, the county auditor, the county treasurer of the county whose county has jurisdiction over the school district, and the State Controller. Upon receipt of such notice and demand, the governing board of the school district shall order the county treasurer to pay to the State Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in such notice. Such amount shall, upon order of the State Controller, be deposited in the State Treasury to the credit of the Public School Building Loan Fund.

It shall be the duty of such governing board and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

## Article 2. School Housing Aid for Reorganized Districts

15780. (a) As used in this article:

(1) "State-aided district" means a district to which a conditional or final apportionment has been made under this chapter.

(2) "Acquiring district" means a district in which all, or a part of, a state-aided district or an applicant district has been included.

(b) Except as otherwise provided in Section 15788, the effective date for the purposes of this article of any change of boundaries or annexation or other inclusion affecting a school district shall be the date such action became effective for the purposes of Section 4002.

15781. When a district has received conditional apportionments which have become final under this chapter, and there is a unification of said district prior to December 31, 1952, within the meaning of Section 4320, with another district having the same boundaries, the effective date of said unification for the purpose of the first district receiving additional apportionments pursuant to the terms of Section 15714 shall be July 1, 1953.

15782. Whenever, prior to the date on which a conditional apportionment is made by the board to an applicant district, (1) if an applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no apportionment shall be made to the applicant district; (2) if less than the whole of an applicant district is included in a district which is ineligible for an apportionment under this chapter, the board may reconsider the application of the applicant district and make such determinations and take such action with respect thereto, including the making, subject to Article 1 of this chapter, of a conditional apportionment to such district, as the board may deem necessary because of such inclusion of less than the whole of the applicant district in the acquiring district; (3) if an applicant district is annexed to or otherwise included in whole or in part in a district which is eligible for an apportionment under this chapter and has made or does make an application for such an apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter, of conditional apportionments to such districts, as the board may deem necessary because of such annexation or other inclusion in the acquiring district of the applicant district in whole or in part.

15783. Whenever, subsequent to the date on which a conditional apportionment is made by the board to an applicant district, but prior to the date on which said conditional apportionment becomes final, (1) if an applicant district is annexed to or otherwise included in whole in a district which is not eligible for an apportionment under this chapter, such conditional apportionment shall, notwithstanding any other provisions of this chapter, become void and the board shall promptly notify the State Controller in writing thereof and the date on which the apportionment became void; (2) if the district to which an applicant district is annexed or in which it is otherwise included in whole is eligible for an apportionment, has made or does make an application for such an apportionment under this chapter, the conditional apportionment made to the applicant

district shall, notwithstanding any other provisions of this chapter, become void but the board may reconsider the application of the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter except as hereinafter provided, of additional conditional apportionments to the acquiring district, as the board may deem necessary as a result of such annexation or other inclusion in the acquiring district of the applicant district; (3) if less than the whole of an applicant district is included in another district, the conditional apportionment shall, notwithstanding any other provisions of this chapter become void, but the board may reconsider the application and make such determinations and take such actions with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter except as hereinafter provided, of new conditional apportionments to the applicant district, as the board may deem necessary as a result of such inclusion of a portion of the applicant district in the acquiring district.

Notwithstanding anything in the first sentence of Section 15721 to the contrary, additional conditional apportionments made to a district under (2), or new conditional apportionments made to a district under (3) of the first paragraph of this section may, with the approval of the board, become final if the total amount of the bonds of the district outstanding and unpaid is within ten thousand dollars (\$10,000) of the amount required under Section 15721.

15784. Whenever, prior to the date on which conditional apportionments have been made to an applicant district for the full amount of state aid approved for the district under Section 15715, (1) if the applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no further apportionment shall be made to the applicant district; (2) if the applicant district is annexed to or otherwise included in whole in a district which is eligible for an apportionment under this chapter and which has made or does make an application for such an apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter, of a conditional apportionment or apportionments to such acquiring district as the board may deem necessary because of such annexation or other inclusion in the acquiring district of the applicant district; (3) if a portion of the applicant district is annexed to or otherwise included in another district, the board may reconsider the application of the applicant district and may, within two years after the first apportionment made under said approval, make such additional apportionments as it sees fit to the applicant district, but not in excess of the amount in which such application was originally approved,

without requiring the district to issue additional bonds.

15785. Notwithstanding, and in lieu of, any provisions of this chapter to the contrary, excepting Section 15725 if during the fiscal year 1950–1951, or any subsequent fiscal year, a conditional apportionment is or has been made to a district, hereinafter referred to as the original district, and if the original district (1) holds or has held all elections required by Section 15721, and (2) before such apportionment becomes final is or has been annexed to or included in whole in another district, hereinafter referred to as the acquiring district, which had prior thereto received its first final apportionment under this chapter during the same fiscal year, and (3) after such inclusion or annexation sells or has sold the bonds authorized by the aforesaid elections, the board may approve any application by the governing board of the acquiring district and make an apportionment, or apportionments, for any project for which the original district would have been eligible under this chapter had such inclusion not taken place. No apportionment shall be made to the acquiring district under this section unless the proceeds of the bonds which the board required the original district to sell are available for and will be contributed toward the cost of the approved project. Any apportionment made to the acquiring district under this section shall become final when made.

The computations provided in Sections 15729, 15730 and 15733 with respect to apportionments made under this section shall be made exactly as though the acquiring school district was comprised only of the original school district.

Any rate or amount of tax levied pursuant to or under the authority of Sections 14204 and 15742, or any other provision of law, for the purpose of producing the amount or any part thereof deducted by the State Controller with respect to apportionments made under this section, during any fiscal year under Sections 15735 and 15738 from apportionments to the acquiring district from the State School Fund shall be levied only on property in the original school district.

15786. Whenever, subsequent to the date when a conditional apportionment is made to a district and before such conditional apportionment becomes final the boundaries of such district are changed so that the territory of the district is reduced by not to exceed 1 percent of the assessed valuation of the district, as determined by the last equalized assessment roll immediately preceding the effective date of such change of boundaries, and the superintendent of schools of the county having jurisdiction over the district has failed to file the certificate required by Section 15795, showing such change of boundaries, and prior to April 15, 1952, the board has certified to the State Controller that the apportionment made to the district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

15787. Notwithstanding any provision of law to the contrary, whenever a conditional apportionment has been made to an elementary school district pursuant to Section 15714 prior to August 1, 1951, and the school district has subsequently voted to become a part of a union school district before the school district has voted to accept and repay an amount sufficient to include both said entire apportionment made pursuant to Section 15714, and all other apportionments made to said school district by the board prior to August 1, 1951, the elementary school district is continued in existence until September 1, 1953, for the purpose of (1) receiving any apportionment made to said district subsequent to August 1, 1951, under Section 15718, as if said elementary district had not voted to unionize with another school district, and (2) for the purpose of voting upon the acceptance and repayment of the apportionment mentioned in (1) or any other apportionment made to said district by the board subsequent to August 1, 1951.

If any elementary school district so described above shall vote, prior to September 1, 1953, to accept and repay any apportionment above mentioned (except of any apportionment made under Section 15718), said apportionment shall thereupon become final. Repayment of any apportionment referred to in this section shall be made by said elementary district pursuant to the applicable provisions of this chapter as if no change in boundaries had been made in said district.

15788. Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of such inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to said apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the public school building fund of the state-aided district shall be transferred to the public school building fund of the acquiring district. All amounts which would, after the effective date of such inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to said apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4000, become liable for the annual repayments and other payments due the state under the provisions of this chapter with respect to said apportionment or the property acquired or to be acquired therewith.

15789. Whenever one or more state-aided districts are included in whole in an acquiring district, and the acquiring district applies for and receives an apportionment, then after the effective date of such inclusion and upon the approval of the application of the acquiring district, the governing board of each component state-aided district shall immediately transfer to the acquiring district all moneys of such component district which are required to be, or have been,

earmarked for a project or projects of the district. The acquiring district, upon the transfer to it of such funds, may expend such funds for any projects of the acquiring district as to which its application was approved.

15790. Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of such district is included in another district, the Director of General Services shall determine what portion of such apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this section may be redetermined by him, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to such final cost. The Director of General Services shall promptly notify the State Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor, and the treasurer of the counties having jurisdiction over said districts of each determination and redetermination made by him under this section. No redetermination shall be retroactive nor affect the liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of such district to the state under the provisions of this chapter.

On and after the date of such change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of such portion of the apportionment in the public school building fund of the state-aided district shall be transferred to the public school building fund of the acquiring district. In addition, and at the same time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under the provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event such portion of such apportionment is a lower percentage of such apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that percentage of the annual repayment and all other repayments due to the state under provisions of this chapter with respect to such apportionment which

is equal to such percentage of assessed valuation in the territory transferred to the acquiring district.

Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the aforesaid apportionment made to the aforesaid state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 of the territory referred to. Such limited liability is hereinafter referred to as "the maximum." It is the intent of the Legislature that the maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of such application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at such time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 15735 prior to January 1, 1966.

If any subsection, clause, sentence or phrase of this section is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section, and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences or phrases be declared unconstitutional.

15791. Notwithstanding any change in the boundaries of a state-aided district or the annexation to, or the inclusion in, another district of a state-aided district, the state-aided district as it existed immediately prior to the effective date of such action shall be continued in existence for the determination of the assessed valuation of the property therein and for the purposes of the computations provided by Sections 15729, 15730, and 15733; and all the computations required to be made pursuant to said sections shall be made exactly as if there had been no such change of boundaries, annexations, or inclusion, except as otherwise provided in Sections 15792 and 15793.

15792. Whenever, subsequent to the date on which a conditional apportionment becomes final, territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district:

(1) If the acquiring district is a state-aided district, the assessed valuation in the territory acquired shall be included in determining

assessed valuation of the property in the acquiring district, and shall thereafter be excluded in determining assessed valuation of the property in the state-aided district, for purposes of the computations under Sections 15729 to 15733, inclusive;

(2) If the acquiring district is not a state-aided district, the State Controller shall determine the percentage relationship, at the time of the withdrawal, between (a) the assessed valuation in the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment under this chapter, and (b) the current assessed valuation of the state-aided district as it was territorially constituted on such latter date.

If the percentage of assessed valuation in acquired territory is, in the aggregate, less than 10 percent, the assessed valuation in all such acquired territory shall be excluded, until the next withdrawal of territory from the state-aided district to the acquiring district, in determining the assessed valuation of the state-aided district for the purposes of the computations under Sections 15729 to 15733, inclusive.

If the percentage of assessed valuation in acquired territory is, in the aggregate, a percentage equal to or greater than 10 percent, the State Controller shall, by deducting such percentage from 100 percent, obtain the "complement percentage." Until the next withdrawal of territory from the state-aided district to the acquiring district, the assessed valuation of the state-aided district for purposes of the computations under Sections 15729 to 15733, inclusive, shall be determined by dividing the current assessed valuation of the state-aided district, as territorially constituted immediately subsequent to the last withdrawal, by the complement percentage.

Whenever, pursuant to this section, the assessed valuation of the state-aided district is adjusted for repayment computation purposes by use of the complement percentage, liability for the annual repayment computed shall be apportioned between the state-aided district and the acquiring district by multiplying such annual repayment by the complement percentage, the product representing the liability of the state-aided district, and the remainder of the computed repayment representing the liability of the acquiring district.

Notwithstanding the foregoing, the liability of the state-aided district shall not exceed the product of any "complement percentage" (as it may from time to time exist) times the balance due on the aforesaid final apportionment at the time such complement percentage is established; and the liability of the acquiring district (while a complement percentage remains unchanged) shall not exceed the remainder of the balance of the aforesaid final apportionment at the time such complement percentage is established. The maximum liability on the part of either the state-aided or acquiring districts established as above (and

until such time as such liability be altered by altering the "complement percentage") shall be hereinafter referred to in this section with respect to each such district as "the maximum."

(3) In the event that two or more non-state-aided districts acquire territory from the aforesaid state-aided district the Controller shall determine the formulae for apportioning liability for such annual repayment between the districts affected (including the formulae for determining what assessed valuations shall be used within the affected districts or territories withdrawn, and the dates of determination thereof) as will in his opinion best comply with the principles set forth above, irrespective of whether such formulae are in literal compliance therewith. The same percentage of annual repayment for which a district is liable at the time such a liability apportionment is made shall (unless and until such liability apportionment is subsequently changed pursuant to this paragraph) be deemed applicable to the liability of such district for the balance (as of the date such liability apportionment is made) due on the final apportionment to the state-aided district. Such liability for such balance shall, with respect to any affected district, be hereinafter referred to as the "maximum" for such district.

(4) It is the intent of the Legislature that the foregoing "maximums" shall be applied by the Controller both retroactively and prospectively, provided that as a result of such application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than its "maximum," assuming this paragraph and others to which it is referable had been in effect at such time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from any other district by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subsection, clause, sentence or phrase of this section is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

15793. Whenever, subsequent to the date on which a conditional apportionment becomes final, any territory is withdrawn from a non-state-aided district and annexed to the state-aided district, the assessed valuation in the territory so annexed shall be included with the valuation of the state-aided district for the purposes of making the computations provided by Sections 15729 to 15733.

15794. The State Controller shall compute, in accordance with Sections 15791, 15792, and 15793, the amount of the annual

repayment due the state on account of the apportionment or apportionments to each state-aided district and shall deduct from the respective apportionments made from the State School Fund under Sections 46304, 46305, 84503, 84504 and 92 or 41050, Sections 41330 to 41343 or 84320, inclusive, and Sections 41600 to 41972, or 84700 to 84874, inclusive, whichever are in effect, to the state-aided district and an acquiring district the portion thereof for which each is liable under the provisions of this article.

15795. When, after any application is filed, the applicant district is annexed to, or, by change of boundaries or otherwise, is included in whole or in part in another district or districts, the superintendent of schools of the county having jurisdiction over said applicant district shall, within 10 days after the effective date of such annexation, inclusion, or change of boundaries, file a certificate with the board, in writing, in such form as the board shall prescribe, setting forth (1) the effective date of such annexation, inclusion, or change of boundaries; (2) identification of the area of the school district affected by such change and the name of the school district or districts in which such area is included as a result thereof; and (3) such additional information in such form as the board may require.

The board shall, upon receiving the appropriate certificate from a county superintendent of schools as provided herein, promptly notify the State Controller, in writing, of (1) the effective date of annexation or other inclusion of a state-aided district by an acquiring district; (2) the name of the state-aided district; (3) the name of the acquiring district; and (4) the number and other identification of the apportionment affected.

#### CHAPTER 7. STATE SCHOOL BUILDING AID BOND LAW OF 1949

15900. For the purpose of creating a fund to provide aid to school districts of the state, the State School Building Finance Committee, created by Section 15909, shall be and it hereby is authorized and empowered to create a debt or debts, liability or liabilities, of the State of California in the manner and to the extent hereinafter provided, but not otherwise, nor in excess thereof.

15901. After the approval by the people of the constitutional amendment of the 1949 Regular Session of the Legislature adding Section 2 to Article XVI of the Constitution of the state, and immediately after adoption of any resolution by the State School Building Finance Committee, provided for in Section 15911, the State Treasurer shall arrange for the preparation of the requisite number of suitable bonds of the denomination of one thousand dollars (\$1,000), or multiples thereof, in accordance with the specifications contained in such resolution. The aggregate par value of all bonds issued under this chapter shall not exceed the sum of two hundred fifty million dollars (\$250,000,000) and shall bear interest at a rate not exceeding 5 percent per annum. Both principal and interest shall be payable in lawful money of the United States, at the office of the State Treasurer, or at the office of any duly authorized

agent of the State Treasurer.

All bonds issued under this chapter shall bear the facsimile signature of the Governor and the facsimile countersignature of the Controller and shall be endorsed by the State Treasurer either by original signature or by a signature stamp, and the bonds shall be signed, countersigned, and endorsed by the officers who shall be in office on the date of issuance thereof, and each of said bonds shall bear an impress of the Great Seal of the State of California. Interest coupons attached to each bond shall bear the facsimile signature of the State Treasurer who shall be in office on the date of issuance of the bond to which said coupons pertain. The bonds or coupons so signed, countersigned, endorsed, and sealed, when sold, shall be and constitute a valid and binding general obligation upon the State of California, although the sale thereof be made at a date or dates upon which the officers having signed, countersigned, and endorsed said bonds or coupons, or any or either of said officers, shall have ceased to be the incumbents of the offices held by them at the time of signing, countersigning, or endorsing said bonds or coupons. Each bond issue under this chapter shall contain a clause or clauses referring to this chapter and to the resolutions of the State School Building Finance Committee hereunder by virtue of which said bond is issued, and if subject to call or redemption prior to maturity, shall contain a recital to that effect.

15902. The State Treasurer shall, on the respective dates of maturity or prior redemption of said bonds, or as soon thereafter as said bonds are surrendered to him, pay the same out of the proceeds of the Controller's warrants drawn in his favor as provided in Section 15903 and perforate the bonds so paid with a suitable device in a manner to indicate such payment and the date thereof. The State Treasurer, or his duly authorized agent, shall also, on the respective dates of maturity, cancel all bonds and appurtenant coupons bearing said dates of maturity and remaining unsold, by perforation with a suitable device in a manner to indicate such cancellation and the date thereof; provided, however, new bonds may be prepared and executed in lieu of bonds canceled solely by reason of the fact that such bonds have not been sold prior to their fixed maturity dates, whenever the State School Building Finance Committee shall determine such new bonds shall be prepared and executed, subject to the condition the total indebtedness created hereunder shall not exceed the maximum limit herein specified. Not less than four years after the final maturity date of a particular issue of bonds, the State Treasurer, or his duly authorized agent, may destroy or cremate any bonds of such issue which have been previously paid or canceled as hereinbefore provided.

15903. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. There

is hereby appropriated from the General Fund in the State Treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter as said principal and interest become due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, on order of the State Controller, all of the money in the Public School Building Loan Fund which was transferred into or deposited in said fund in accordance with the provisions of Sections 15735, 15752, 15753, and 15754 and the former Section 5107 as added by Chapter 922 of the Statutes of 1949, and as subsequently amended, together with all of the money deposited in the Public School Building Loan Fund under Section 15906 which was derived from premium and accrued interest on bonds sold pursuant to said Section 15906; but the amount to be transferred to the General Fund pursuant to this section shall not exceed the principal of and interest on the said bonds then due and payable, except as hereinafter provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity being less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of said Public School Building Loan Fund as soon thereafter as it shall become available.

Both principal and interest of said bonds shall be paid when due upon warrants duly drawn against said appropriation from the General Fund by the State Controller in favor of the State Treasurer, or his duly authorized agent, upon claims audited by the State Controller. The State Allocation Board, by resolution approved by the State School Building Finance Committee, shall direct the State Treasurer redemption, to call bonds (which are then subject to redemption) if such call is desirable and whenever funds are available to effect such redemption, the part of each issue so called to be not less than all of the bonds maturing in any one year. Notice of such redemption shall be given by the State Treasurer in the manner provided in the resolution authorizing the issuance of said bonds.

15904. All money deposited in the Public School Building Loan Fund under Sections 15735, 15752, 15753, and 15754 shall be available only for transfer to the General Fund, as provided in Section 15903. When transferred to the General Fund, such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the

earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

15905. The sum of seventy-five thousand dollars (\$75,000) was appropriated, by Chapter 922 of the Statutes of 1949, out of the General Fund to be used as a revolving fund to pay the expenses incurred by the State Treasurer in having said bonds prepared and in advertising their sale or their prior redemption. Whenever bonds are sold, out of the first money realized from the sale of said bonds, there shall be redeposited in the revolving fund such sums as the State Treasurer has expended for the purpose, which may be used for the same purpose and repaid in the same manner whenever additional sales are made. Whenever all the bonds authorized by this chapter have been sold, said revolving fund shall be refunded to the General Fund in the State Treasury.

15906. The bonds authorized to be issued under this chapter shall be sold by the State Treasurer to the highest bidder for cash at public sale upon sealed bids in such parcels and numbers as the State Treasurer shall be directed by the Governor of the state, under seal thereof, but the State Treasurer must reject any and all bids for said bonds, or for any of them, which shall be below the par value of said bonds so offered plus the interest which shall have accrued thereon between the date of purchaser's payment for said bonds and the last preceding interest maturity date; and the State Treasurer may from time to time, by public announcement at the place and time fixed for the sale, continue such sale, as to the whole of the bonds offered, or any part thereof offered, at such time and place as the State Treasurer may select. Each bid shall be in writing and signed by the bidder and sealed, and shall be accompanied by the deposit of a certified check or cashier's check for five thousand dollars (\$5,000), drawn on a bank or trust company authorized to transact and transacting business in the State of California, payable to the Treasurer of the State of California, such deposit not to bear interest. The deposit of each unsuccessful bidder shall be returned to him immediately upon the nonacceptance of his bid, and the deposit of the successful bidder shall immediately upon the acceptance of his bid become and be the property of the State of California and be placed in the State Treasury to the credit of the Public School Building Loan Fund, and shall be credited to the successful purchaser upon the purchase price of the bonds bid for in case such purchase price is paid in full by him within the time mutually agreed upon between the successful bidder and the State Treasurer. If the purchase price is not so paid, the successful bidder shall have no right in and to said bonds or by reason of said bid, or to the recovery of said deposit accompanying said bid, or to any allowance or credit by reason of such deposit unless it shall appear that the bonds would not be validly issued if delivered to the purchaser in the form and manner proposed. In case the purchase price is not so paid, the bonds so sold but not paid for shall be resold by the State Treasurer upon notice as provided in case of original sale.

Temporary or interim bonds, certificates, or receipts of any denomination whatever and with or without coupons attached thereto, to be signed by the State Treasurer, may be issued and delivered until the definitive bonds are executed and available for delivery. Signature of the State Treasurer may be by signature stamp.

15907. All money deposited in the Public School Building Loan Fund under the provisions of Section 15906 which is derived from premium and accrued interest on bonds sold pursuant to said section shall be reserved in said fund and shall be available only for transfer to the General Fund, as provided by Section 15903. When transferred to the General Fund, such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the particular issue of school building bonds from the sale of which such premium and accrued interests were derived.

15908. Due notice of the time and place of sale of all bonds shall be given by the State Treasurer by publication in one newspaper published in the City and County of San Francisco, by publication in one newspaper published in the City of Sacramento, and by publication in one newspaper published in the City of Los Angeles once a week during two weeks prior to such sale. In addition to the notice last above provided for, the State Treasurer may give further notice as he may deem advisable, but the expense and cost of such additional notice shall not exceed the sum of five hundred dollars (\$500) for each sale so advertised. The proceeds of the sale of such bonds and such amount as may have been paid as accrued interest thereon shall be forthwith paid over by the State Treasurer into the Public School Building Loan Fund and must be used exclusively to aid school districts of the state in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and construction, reconstructing, repairing, alteration of, and making additions to, school buildings; provided, that the proceeds from the sale of said bonds may be used to pay the debt created by the issuance and sale thereof, the expense of preparing and of advertising the sale or prior redemption of said bonds, and the actual and necessary expenses of the State School Building Finance Committee.

15909. There is hereby created a State School Building Finance Committee composed of the Governor, State Controller, State Treasurer, Director of Finance, and Director of Education, all of whom shall serve thereon without compensation and a majority of whom shall be empowered to act for said committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the speaker, shall meet and advise with the committee to the extent that such advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter said Members of the Legislature shall constitute an interim investigating

committee on the subject of this chapter and as such shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide such assistance to the State School Building Finance Committee as it may require. The Attorney General of the state shall be the legal adviser of the State School Building Finance Committee.

15910. Upon request of the State Allocation Board, supported by a statement of the apportionments made and to be made under Sections 15700 to 15795, inclusive, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that one hundred million dollar (\$100,000,000) will have been apportioned or will be available for apportionment on October 5, 1950, or as soon thereafter as such bonds can be issued and sold, and so that five million dollars (\$5,000,000) additional will become available for apportionment on November 5, 1950, and on the fifth day of each month thereafter until the total amount of bonds authorized by this chapter have been issued and sold. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

15911. Whenever the State School Building Finance Committee shall have determined that the sale of all or any part of the bonds authorized to be issued under this chapter is necessary or desirable to make such apportionments, in whole or in part, it shall adopt a resolution to this effect. The said resolution shall authorize and direct the State Treasurer to provide for the preparation of the requisite number of suitable bonds then authorized to be sold and shall specify as to such bonds then to be sold:

1. The aggregate number, aggregate par value, and the date of the bonds to be then sold. The date appearing on said bonds shall be deemed to be the date of issuance for all purposes of this chapter, irrespective of the actual date of delivery of such bonds and the payment of the purchase price thereof. Successive issues of bonds herein authorized shall be identified by the number of the issue, or the entire authorized issue may be divided into series or divisions appropriately identified by letter or number.

2. The date or dates of maturity, and the number and numerical sequence of the bonds maturing at each date of maturity, to be at annual or semiannual intervals.

3. The provisions for the retirement of said bonds at any time or times prior to their maturity, the manner of the call thereof, and the price or prices at which said bonds shall be redeemed.

4. The annual rate, or rates, of interest which the bonds to be issued shall bear, to be in multiples of one-fourth of 1 percent, which rate, or rates, at the discretion of said committee, may be determined

by the bidder at the time of sale of said bonds, not to exceed 5 percent.

5. The number, numerical sequence, amount or amounts, and dates of maturity of the interest coupons to be attached to said bonds.

6. The technical form and language of said bonds and of the interest coupons to be attached thereto.

In determining the date or dates of maturity of the said bonds and the amount of bonds maturing at each date of maturity, the State School Building Finance Committee shall be guided by the amounts and dates of maturity of the receipts estimated to accrue to the Public School Building Loan Fund from the transactions to be financed by each issue, and shall fix and determine said dates and amounts in such manner that, together with the dates and amounts of interest payments on the said bond issue, they shall coincide, as nearly as practicable, with the dates and amounts of such estimated receipts, provided, the bonds first to mature in each issue shall mature not later than five years and the bonds last to mature in each issue shall mature not later than 45 years from the date of issuance thereof.

The rate of interest to be borne by the bonds need not be uniform for all bonds of the same issue or series or division, and may be determined and fixed by the State School Building Finance Committee by resolution adopted at or after the sale of said bonds, but not exceeding in any case 5 percent per annum payable semiannually. The highest bid received on the sale of the bonds shall be determined by deducting the total amount of the premium bid (if any) from the total amount of interest which the state would be required to pay from the date of sale to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, and the award shall be made on the basis of the lowest net interest cost to the state. The lowest net interest cost to the state shall be computed between the dates aforesaid according to standard bond interest tables. The interest coupons first payable may, if the State School Building Finance Committee shall so determine and specify, be payable at any time within one year after the date of issuance of said bonds.

15912. All actual and necessary expenses of the State School Building Finance Committee and the legislative interim committee and of the members thereof incurred in the performance of their duties arising out of the provisions of this chapter shall be paid out of the Public School Building Loan Fund, upon approval of the State Board of Control and on Controller's warrant duly drawn for that purpose.

Whenever the State School Building Finance Committee deems that it will increase the salability or the price of the bonds to obtain a legal opinion as to the validity of the bonds, prior to or after sale, from attorneys other than the Attorney General, the committee may authorize the State Treasurer or the Department of Finance or both to obtain such a legal opinion. Payment for such legal services shall

be made from the Public School Building Loan Fund, upon approval of the State Board of Control and on Controller's warrant duly drawn for that purpose.

15913. The Controller, the State Treasurer and the State School Building Finance Committee shall keep full and particular account and record of all their proceedings under this chapter and they shall transmit to the Governor an abstract of all such proceedings thereunder, with an annual report, to be by the Governor laid before the Legislature biennially; and all books and papers pertaining to the matter provided for in this chapter shall at all times be open to the inspection of any party interested, or the Governor, or the Attorney General, or a committee of either branch of the Legislature, or a joint committee of both, or any citizen of the state.

## CHAPTER 8. STATE SCHOOL BUILDING AID LAW OF 1952

### Article 1. General Provisions

16000. This chapter may be cited as the State School Building Aid Law of 1952.

16001. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this chapter, the Legislature considers that the great need in school construction is for classrooms for the education of the pupils of the public school system. It is the intent of the Legislature to first satisfy this primary need to the greatest extent possible before providing additional educational facilities, regardless of how desirable such additional facilities may be. To the end that school classrooms may be made available at once and to all school districts in need of such classrooms, provisions for other needed school facilities is necessarily subordinated.

16002. As used in this chapter:

(a) "Board" means the State Allocation Board, created by Section 7 of the Construction and Employment Act as amended.

(b) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive, and the Board of Governors of the California Community Colleges for grades 13 and 14.

(c) Notwithstanding any other provision of law, the term "project" shall be deemed to include any or all of the purposes for which a school district has applied for apportionments under this chapter, pursuant to such regulations as the State Allocation Board may adopt.

(d) "Grade level maintained by a district" means (1) the kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school

district; or (2) grades 7 to 12, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district; and (3) grades 13 and 14 maintained by a high school district, unified school district, or community college district, but not more than one grade level shall be claimed by any district under any one of the subdivisions of this paragraph.

(e) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires. The term "apportionment" in Sections 16091, 16097, 16099, 16100, 16104, 16105, and any other section in this chapter where the context justifies, shall be deemed to include funds of a school district required by the board to be contributed toward the purposes thereof. It is hereby declared that this construction is not intended as a change in the present law but rather as a declaration of existing law.

16002.5. For the purposes of this chapter, the term "basic bond requirement", wherever used, has the following meaning: 5 percent of the assessed valuation of taxable property of the district for each grade level maintained by a district, as shown by the last equalized assessment of the county or counties in which the district is located, and as modified by Section 41201 or Section 84201.

16003. With respect to applications filed on and after the effective date of this section by a unified district and any apportionments and repayments made under such applications, "grade level maintained by the district" means (1) the kindergarten, if any, and grades 1 to 12, inclusive, maintained by the district, or (2) grades 13 and 14 maintained by the district.

A unified district if otherwise eligible, may apply for and receive an apportionment for either one or both of such grade levels.

This section shall not apply to a unified district during the first three years following the effective date of this section, or during the first three fiscal years in which the district is in existence for all purposes, if the governing board of the district transmits to the board a written notice stating the district desires to be exempted from this section during such period.

16004. Notwithstanding any provision of this chapter to the contrary, the board shall review each application and shall take such action to insure that apportionments are not made that will provide for construction of permanent facilities to meet temporary peak enrollments at any site or at any grade level. In cases deemed by the board to be hardship cases involving high school or unified school districts where any such district will not be able to house high school students under basic area limitation formulas prescribed in this chapter, the board may make apportionments for high school facilities in excess of such limitations. In such event the board may provide for the construction of portable facilities at any particular site for which such apportionments are made, particularly where the board determines that there will be, within a six- to nine-year period immediately following the apportionment for facilities at such site, a diminution in enrollment at such site justifying relocation of

facilities. In no event shall the board have any authority to make an apportionment for construction area at a high school attendance center which, when added to the area of adequate school construction at that center, would exceed the area permitted therefor by Sections 16053 and 16054.

16005. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

16006. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the State School Building Aid Fund.

16007. The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on rapidity of growth in attendance, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

The State Department of Education and Board of Governors of the California Community Colleges, shall assist and cooperate with the board in determining priorities.

16008. In allocating funds under this chapter, the board may give first priority to school districts for the replacement and repair of school buildings and necessary facilities appurtenant thereto damaged by any earthquake occurring subsequent to July 1, 1952. All of the provisions of this chapter apply to such districts except the provisions for the establishment of priorities.

Prior to making any apportionment under this section, the State Allocation Board may secure from the Department of General Services, a report showing the urgency of the work of replacement or repair for which an application has been filed. The report shall not be conclusive upon the State Allocation Board, but shall be advisory only.

16009. In addition to such other powers and duties as are granted the board by this chapter, the board shall:

(a) Establish such qualifications not in conflict with other provisions of this chapter as it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish such procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter as it deems necessary and which are not in conflict with the powers and duties of the Department of Education, of the Board of Governors of the California Community Colleges, or of the director granted or imposed by this chapter.

(c) Adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

16010. The Department of Education, in addition to any responsibilities or approvals required under Sections 39000 to 39323, inclusive, or Sections 81031 to 81182, 81330 to 81353, and 81520 to 81531, inclusive, shall provide the following services to school districts making applications for apportionments under this chapter:

(1) It shall assist school districts in organizing a comprehensive planning effort. It shall guide a planning process through its appropriate steps and, when requested by a school district, it shall provide the school district with sources of expertise, either public or private, which may be able to contribute to the development of plans to find solutions for specific problems a school district may have.

(2) It shall provide continuing research in relation to all phases of educational programs and the school facilities that are required to implement these educational programs.

(3) It shall provide a review and evaluation service to school districts to assure the effectiveness of the facilities that have been provided in accommodating educational programs.

(4) It shall provide communication media through publications, seminars, and prepare planning guides and procedures containing recommendations, which guides shall be used to disseminate educational planning information to all school districts.

16011. Each school district which desires an apportionment of funds under this chapter shall, unless specifically exempted by the board, prepare a long-range comprehensive master plan for the district prepared in accordance with acceptable planning procedures. Information relating to the following factors should be included in this master plan:

(a) A statement of the educational programs and goals of the district in relation to its programs, both current and future.

(b) A comprehensive evaluation and report of the utilization of the school facilities now existing in the district.

(c) A comprehensive demographic study of the district, as it currently exists and as projected into the future.

(d) A policy statement regarding actual or potential human problems.

(e) A policy statement as to the priority in which the district proposes to solve its school housing problems.

(f) A policy statement regarding cooperation with other local public agencies to achieve total community development.

(g) A policy to insure continuous review so that plans will be kept up to date and changing conditions will be reviewed and accommodated by appropriate revision of plans.

The director shall review the long-range master plan and project development plan and shall report his findings and recommendations thereon to the board.

16012. The board shall prescribe instructions specifying the

manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from such a disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to any such property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement such disposition. Whenever the board determines it to be in the best interests of the state, an apportionments may be made for the demolition of any facilities replaced through an apportionment. The provisions of this section shall be applicable to property replaced by apportionments heretofore or hereafter made under this chapter or Chapter 6 (commencing with Section 15700) of this part.

16013. Notwithstanding any other provisions of this chapter, the board may grant priority in the apportioning of funds to school districts to those districts which have sold facilities replaced under a previous application and have applied the proceeds therefrom in reduction of prior apportionments to the district. Apportionments so made shall not be in excess of the amount of the proceeds which were applied to prior apportionments subsequent to July 1, 1970 and shall be made only for projects which were approved by the board prior to July 1, 1970.

16014. Apportionment from the State School Building Aid Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for the following purposes, all of which purposes are hereby declared to be, and are, public works: (a) the purchase and improvement of school sites which have been approved by the State Department of Education or the board of governors, each within its own jurisdiction; (b) the purchase of necessary desks, tables, chairs and other movable furniture and equipment, as approved by the Department of Education; or the board of governors, each within its own jurisdiction; and (c) the planning and construction, reconstruction, alteration of, the moving of portable classroom buildings on an existing site or to another school site, and addition to, school buildings, including build-in or fixed equipment, for such facilities as are approved by the Department of Education or the board of governors each within its own jurisdiction as essential, except (1) a room used solely for an auditorium for a school of any type or class and (2) a room used solely for a gymnasium or a room used solely for a cafeteria for elementary schools. This section does not prohibit the Department of Education or the Board of Governors of the California Community Colleges from approving multipurpose

rooms which are rooms designed to be used for two or more of the following purposes:

- (a) Classroom
- (b) Auditorium
- (c) Gymnasium
- (d) Cafeteria

(e) Such other purposes as the district requires which are approved by the Department of Education or the Board of Governors of the California Community Colleges.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to said district out of said apportionment, or out of any apportionment made specifically covering such insurance; provided, that in other respects said apportionments are eligible for payment under provisions of this chapter.

In addition to the foregoing, the board may make an apportionment to a school district for the purchase from another school district of existing facilities, real or personal, including the site thereof, or any portion of any of the foregoing, providing that the board finds (1) that it is economical and good practice on the part of the acquiring district to purchase the same, and (2) that the consideration to be paid in the light of all the circumstances surrounding the transfer is fair and equitable both to the acquiring district and to the state.

16015. Notwithstanding any other provisions of this chapter, the board may make an apportionment to any school district for the cost of leasing portable classrooms during the period in which additional school facilities are being constructed by a previously approved project, provided:

(a) The district has received a final apportionment for the previously approved project and the construction of which has not yet been completed; and

(b) Estimates of average daily attendance used for justifying the previously approved project indicate either (1) an increase over the base period of projection of at least 15 percent, or (2) a substantial number of district classes being on triple session during the period of construction, as determined by the State Allocation Board; and

(c) The district is making maximum use of its existing facilities through the operation of one or more continuous school programs.

Any apportionment made to a school district pursuant to this section shall be added to the final apportionment for the previously approved project specified in subdivision (a), and the repayment thereof by the school district shall be made under the same terms and conditions as prescribed for the final apportionment.

16016. A leasehold or use permit interest held by a school district in land owned in fee simple by the government of the United States

may, for all purposes of this chapter, be deemed a purchase of land by the district and to vest title and ownership in the district.

16017. The board shall not make any apportionment with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate said facilities.

16018. In addition to the purposes for which apportionments may be made to school districts under Section 16014, apportionments may also be made to school districts for the construction, repair, attachment or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16019. In making applications for, and in expending apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds apportioned under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing such real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. Such certificate shall as to any party thereafter acquiring real property or any interest therein in the county from said school district have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. Such effect shall commence upon recordation and continue until the certificate is discharged or released as provided herein.

Upon request the Director of General Services shall (1) issue a release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under Section 16105, provided that delivery of such release may be subject to such conditions as may be prescribed by the board to protect the state's interest; (2) issue a disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under the terms of Section 16105, provided that the delivery of such disclaimer may be subject to such conditions as the board deems appropriate to protect the interests of the state, including conditions relating to the amount of consideration to be received from such disposition where the board

asserts an interest in the proceeds of such disposition under other provisions of this chapter. Such release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter (1) the Director of General Services shall file with the recorder a release of any such certificate which release shall be recorded and indexed in the same index as the aforesaid certificate; and (2) the title to personal property purchased by such school district with funds apportioned under this chapter shall revert thereto without further action by the state.

16020. The board may require school districts to insure for the benefit of the state all sites, equipment and buildings which are under Section 16019 the property of the state, against such risks and in such amounts as the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on said insurance.

16021. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

16022. Funds apportioned to a school district under Section 16024 of this chapter for a project, remaining unencumbered or unexpended one year from the date the application of the district for such apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend such funds. The board shall immediately request the Department of Education or the board of governors, as may be appropriate, and that department shall, review the project for which apportionment was made. If the Department of Education or the board of governors finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in such manner as it deems necessary subject to the provisions of Section 16067, and make such changes in the purposes for which the apportionment may be expended as it deems necessary. The cost of the project as revised by the board shall be computed in the manner prescribed by Section 16024 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the State Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the state school building fund of the district.

If the amount of such excess, or any portion thereof, has not been paid to the district, such excess, or portion thereof, shall be made available for apportionment to other districts, if such excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay such amount to the State Treasurer, out of the funds, and in the manner specified in Section 16100. Such payment shall, on order of the State Controller, be deposited in the State School Building Aid Fund in the State Treasury.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a school district.

16023. Notwithstanding any other provisions of this chapter, a district may apply, on a separate application, for an apportionment for the purchase of laboratory and vocational training equipment, whether or not such equipment is for use in connection with a construction project.

All of the provisions of this chapter apply to such application and apportionment except that:

(a) Any application for the equipment pursuant to this section which is received by the board shall be transmitted to the Department of Education or board of governors as appropriate. If the Department of Education or board of governors approves the application, it shall refer it to the board which shall either approve or reject the application pursuant to Section 16024. Any provision of Section 16024 inconsistent with this section shall not apply to such application.

(b) Section 16007 does not apply.

(c) If the application is approved and an apportionment granted therefor the district shall repay the full amount of such apportionment and the interest thereon. The repayment of the apportionment, and the interest thereon, may be over a period of years, not to exceed 20 years from the first day of January of the fiscal year next succeeding the fiscal year in which such apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. Such repayment is in addition to any other repayment required under this chapter.

16024. Each school district which desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in such form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout

plans showing the entire construction project for which the district desires an apportionment. Before the board approves an application for a construction project and makes an apportionment pursuant to this chapter, it shall after consultation with the Department of General Services establish standards for all new construction included therein. After such consultation the board shall establish current construction cost standards for such construction. Such standards shall not exceed typical comparable new construction by school districts in the same area not receiving or eligible for apportionment under this chapter, or if there has been no new construction by school districts in the area, the standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine such typical current costs or such reasonable current costs. In applying such standards the board shall take into account the size and type of the construction proposed and may make such deviations as in their judgment are justified. When a standard has been set by the board to cover any individual apportionment, no apportionment shall be made by the board in excess of such standard, unless the board shall find that in view of a rapid increase in building costs an adjustment is warranted. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A school district shall not let any contract for new construction included in an application for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for such new construction.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The Allocation Board shall require such changes in the plans which an applicant school district submits with its application as the board determines is necessary or desirable to reduce the cost of the project. The board may also by rule provide for the vesting in the director or in the Director of General Services of the responsibility for requiring such changes, according to whether the subject matter of the change is subject to the jurisdiction or approval of the director or the Director of General Services, respectively.

The board may for such good cause as it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a school district under the terms of an apportionment,

other than any contribution required of such district under Section 16058 from the sale of bonds; provided, that the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount which the school district can contribute toward the cost of the project out of its available funds, and shall submit his report thereon to the board.

The term "available funds" as used in the preceding paragraph means funds of the district other than funds received by gift or bequest.

The director shall as promptly as possible prepare a report and recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he finds said documents to be in proper form and otherwise sufficient, refer them to the board. If the Director of General Services finds said documents to be lacking in any respect as to any matter which is subject to the jurisdiction or approval of the director or Department of Education, or the board of governors, as appropriate to their jurisdiction, he shall refer them to the director who shall take such action as may be necessary. The board shall, subject to the provisions of this chapter approve or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or such portion thereof as the board may deem appropriate; provided, that it may order that the apportionment or any part thereof shall be paid in progressive installments at such times and under such conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16058 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of nine months from the date of said resolution of the board, and if it does not become a final apportionment by that date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

16025. Notwithstanding any other provisions of this chapter, a school district otherwise eligible to receive a conditional apportionment under this chapter may apply for an adjustment of annual repayment obligations in lieu of receiving such conditional apportionment.

The board may require such information as is necessary to determine the number of units of estimated average daily attendance for which the district would have been eligible to construct school facilities under this chapter, if such conditional apportionment had been made and had become final. Such units shall be known as "eligible attendance units."

The board shall then determine an "eligible facilities cost" by multiplying the number of such eligible attendance units by the average cost of housing elementary or high school pupils as set forth in the latest report to the Legislature required under Section 16098.

In any fiscal year in which the school district is in the judgment of the board operating sufficient year-around classes to provide housing for the eligible attendance units aforementioned, the Director of General Services shall add to the amount which he is required to certify to the Controller under Sections 16072, 16084 and 16086 an amount equal to one-twentieth of such eligible facilities costs.

The additional amount so certified shall be considered for all purposes of this chapter as eligible bonded debt service.

16026. Notwithstanding any other provisions of this chapter, any school district whose governing board has adopted and put into effect a year-round school operation plan or continuous school program, as defined in Section 16030, or has adopted such a plan or program for operation in the following school year, may apply to the board and the board may provide financial assistance in furnishing and installing an air cooling system in those facilities which will be so operated, so long as the construction of any such facility was commenced prior to December 31, 1972. Financial assistance provided by the board may be in the form of (a) an apportionment pursuant to Section 16024, (b) an authorization to use proceeds from the sale of district bonds, or (c) an authorization to use the net proceeds derived from the sale of unused school sites whether or not there are unpaid apportionments outstanding against such sites.

The board shall establish cost standards applicable to the furnishing and installing of air cooling systems in existing schools. No apportionment or authorization shall be made by the board in excess of the standard established for such apportionment.

16027. In any fiscal year in which the school district is conducting a year-round school operation or continuous school program, as defined in Section 16030, utilizing a facility for which financial assistance was provided by the board under Section 16026, the Director of General Services shall add to the amount which he is required to certify to the Controller under Sections 16072, 16084 and 16086 an amount equal to the debt service for retirement of bonds authorized for use under Section 16026.

16028. Any authorization of the proceeds derived from the sale of an unused site pursuant to Section 16026 shall constitute a conversion of the unpaid portion of the apportionment to the application for an air cooling system as if an apportionment had originally been made therefor. Such converted apportionment shall be repaid pursuant to

Section 16069 irrespective of Section 16105.

16028.5. Whenever a school district has received an increased building cost allowance pursuant to Section 16024 or 16026 for the purpose of providing facilities for year-around school operation as defined in Section 16030, and in any fiscal year subsequent to the fiscal year in which the facilities are completed fails to conduct such a year-around school operation, the Director of General Services shall in the following fiscal year deduct an amount from the eligible bonded debt service of the district equal to one-twentieth of the amount of such increased cost allowance plus interest thereon. The total amount to be deducted in subsequent fiscal years after the completion of such facilities shall not exceed seven-twentieths of the amount of the increased allowance, plus interest.

16029. Notwithstanding any other provisions of this chapter, a school district qualifying for an adjustment of annual repayment obligations under Section 16025 or Section 15731 may apply for an apportionment under this chapter.

Such apportionment shall not exceed the "eligible facilities cost", as defined in Section 16025 or Section 15731, and may be made available, upon the review and recommendation of the Department of Education, or the board of governors, as appropriate to their jurisdiction, only for such modifications of existing facilities necessary for the implementation of continuous school program (as defined in Chapter 5 (commencing with Section 37600) of Part 22 of Division 3 of Title 2).

In allocating funds under this chapter, the board may give first priority to school districts for modifications to existing facilities to be made pursuant to this section when in the judgment of the board such modifications of existing facilities are necessary for operation of year-round classes. In no event shall apportionments be made for modifications to a standard greater than could have been constructed in a new school building under this article. All of the provisions of the chapter apply to such districts except the provisions for the establishment of priorities.

Any apportionment made under this section shall be deducted from the eligible facilities costs before the Director of General Services makes his computation of the adjustment under Section 16025 or 15731.

16030. A year-round school operation or continuous school program consists of a school schedule in which students in any one school are divided into groups of pupils who attend school in rotating shifts of sessions. A year-round school schedule or continuous school schedule shall consist of not less than 240 days per year in which the school is open. For purposes of state school support a pupil shall attend school for not less than 175 days.

16031. Notwithstanding any provision of this chapter to the contrary, no school district shall be required, except as provided in this section, to contribute toward the cost of a project for which an application for an apportionment is filed, any of the following funds

of the district:

(a) Amounts in the general fund of the district which are apportionments from the State School Fund.

(b) Amounts in the general fund of the district which are the proceeds of a tax levy and have not been earmarked by the governing board of the district or the electors of the district for any purposes for which school district bonds may be issued and sold.

In considering an application for an apportionment the board may review the purposes for which the district has expended or encumbered proceeds from the sale of district bonds authorized to be issued at an election held on or after September 3, 1952. Upon a finding by the board that any such proceeds have been expended or encumbered for purposes outside the scope and intent of this chapter, the board may require the district to contribute toward the project for which an apportionment is sought from any funds of the district, except those referred to in subdivision (a) above, an amount equal to the amount of district bonds proceeds expended or encumbered for purposes outside the scope and intent of this chapter. Proceeds from the sale of district bonds which have been encumbered or expended for the purchase of schoolbuses authorized by Section 15100 shall be deemed encumbered or expended for purposes outside the scope and intent of this chapter.

If a district is required pursuant to this section to make a contribution toward the project for which an apportionment is sought as a result of the purchase prior to January 1, 1967, of schoolbuses authorized by Section 15100 out of proceeds from the sale of district bonds, the district at the time that the board determines that the contribution is required may agree to pay the required contribution by payment into the State School Building Aid Fund by 10 or less annual installments payable without interest over a period not exceeding 10 years after the date of the final apportionment. The first installment shall be due and payable one year after the date of the final apportionment. The installment payments shall be made by the governing board of the district from moneys in the general fund of the district if money is available therefor. If the governing board of the district determines that money is not available in the general fund of the district for such purposes, the maximum rate of school district tax for any school year is hereby increased for any school year by such amount not to exceed the amount of the proposed payment into the State School Building Aid Fund as shown by the budget for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from the revenue from the increase in the rate of tax provided by this section.

16032. Notwithstanding any other provisions of this chapter, whenever the board makes a finding pursuant to Section 16031 that *proceeds from the sale of district bonds* have been expended or encumbered by a school district for purposes outside the scope and

intent of this chapter the board, in lieu of requiring the district to contribute toward the project for which an apportionment is sought from any funds of the district, may stipulate that such bond funds expended or encumbered shall not be considered as "eligible bonded debt service" as defined in Section 16070 and 16084.

16033. The expenditure by a school district, prior to the filing of an application for an apportionment under this chapter, of proceeds from the sale of district bonds for the construction of a swimming pool, shall not in and of itself constitute grounds for denying an apportionment, but the board may require a contribution of district funds therefor under Section 16031.

16034. Before the board approves an application for a furniture or equipment project, or an application for a new construction project, including furniture and equipment, and after consultation with the Department of Education and the board of governors, it shall establish current furniture and equipment cost standards. Such standards shall not exceed the quantity and quality of furniture and equipment for comparable facilities purchased by school districts not receiving or not eligible for an apportionment under this chapter. Such standards shall consist of equipment costs for each type of classroom or pupil station which represents a differential in costs. The standards shall be reviewed quarterly by the board and adjustments made in accordance with current cost standards. When standards have been adopted by the board, no apportionment shall be made by the board in excess of such standards unless a rapid increase in costs warrants an adjustment.

Before the board approves an application for furniture and equipment in connection with an application for the replacement of, reconstruction of, alternation of, or addition to, a school building, the Department of Education or the board of governors, as appropriate to their jurisdiction, after full consideration of all the furniture and equipment existing in the applicant district that is in usable condition, shall recommend the amount that shall be approved in the application. The board may approve all or a portion of the amount so recommended.

16035. The board may approve, in whole or in part, an application submitted by a school district under Section 16024 and in such amount, not exceeding the amount applied for, as the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount determined by the board as aforesaid, to the applicant school district from the State School Building Aid Fund for such portion or portions of the construction project as the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a construction project, the board may approve the remaining portion or portions of the construction project and make

an additional apportionment or apportionments within two years after the original approval without requiring a district to issue additional bonds. The board may also make an additional apportionment or apportionments for a period of time in excess of two years after the original approval without requiring a district to issue additional bonds if it has made a finding that such additional apportionment or apportionments are justified by virtue of the fact that state funds were not available for apportionment within the two-year period after the original approval because of the inability of the state to sell authorized state bonds within the maximum permitted interest rate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to such district in an amount equal to such excess even though such additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board. Before such additional apportionment becomes final the district, pursuant to Section 16058, shall hold an election to repay the amount of such additional apportionment which is in excess of the amount which the district has previously voted to repay. Such additional apportionment shall become final when the county superintendent of schools transmits to the board and the State Controller a certificate in duplicate stating that the school district has authorized the acceptance and expenditure of the necessary amount of such excess. If such additional apportionments are made by the board within two years after the original approval, the district shall not be required to issue additional bonds.

Except as otherwise provided in this section, all provisions of this chapter relating to apportionments shall apply to apportionments made under this section.

Whenever an apportionment has heretofore been made or is hereafter made to a district for a site and the district heretofore or hereafter proposes to acquire the site through negotiation or condemnation but the total acquisition cost thereof, plus all other costs incidental to either the acquisition or condemnation of the site, exceeds or exceeded the apportionment for the site, the board may at any time hereafter make an additional apportionment to provide for the differential in total acquisition cost without the district being required to issue additional bonds to qualify, providing the board finds (1) that it is in the interest of the state to proceed with the acquisition despite the acquisition costs, and (2) that the district is unable to provide, or it would be a hardship to require it to provide, the excess costs. The board may also, in its discretion, as a condition of making such apportionment, require the district to repay in full all or any part of the excess apportionment, under such terms and conditions as the board deems desirable, and the district shall be

empowered and obligated to comply if it accepts the excess apportionment, notwithstanding any other law to the contrary; provided, (1) that no such repayment shall be required from any source that would be exempt from required contribution toward the cost of a project under Sections 16024 and 16031 (excepting amounts in the General Fund raised by taxes to pay any judgment requiring such repayment), and (2) that any portion of the apportionment not required to be repaid in full, shall be repayable in the same manner as a construction apportionment.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16036. The board shall, after consultation with the Department of Education, or the board of governors, as appropriate establish site cost standards which shall be used in evaluating the cost in relationship to the size of any site to be acquired wholly or partially with funds apportioned under this chapter. In determining such standards, consideration should be given to the following factors:

- (a) The grade level of the school.
- (b) The location of the school.
- (c) The enrollment to attend the school.
- (d) The purchase price of each acre of the site.
- (e) The site development cost.
- (f) Land use in the area.

16037. Notwithstanding any other provision of this chapter, whenever the board has made an apportionment more than two years after the original approval of and apportionment for any construction project, and pursuant to Section 16035 has required the district to issue additional qualifying bonds as a condition of such apportionment, the board may continue to make apportionments as it may consider necessary to complete the approved construction project without requiring further qualification by the district, provided such apportionments are made within two years of the date upon which the additional qualifying bonds were required.

16038. Notwithstanding the provisions of Section 16035, if the board has approved an application for a construction project and has made an apportionment therefor, the board may make an additional apportionment or apportionments for a period of time in excess of two years after the original approval without requiring a district to issue additional bonds; provided that: (1) the approved project provides for the structural rehabilitation of an unsafe school building, and (2) the apportionment is necessary to cover costs resulting from additional items of work necessary for compliance with structural safety requirements, and the need for such additional work was not foreseen at the time of the original apportionment.

16039. Notwithstanding any other provisions of this chapter, a district which applies for an apportionment for the purchase of a site or for the cost of the preparation of plans and specifications, which

is not a part of a construction project, shall make a separate application for such site or plans and specifications in the same manner as prescribed by Section 16024.

All of the provisions of this chapter apply to such application and apportionment except that:

(a) If the Department of Education determines that within five years in the case of an application for an elementary grade level maintained by the district, or within seven years, in the case of an application for a high school grade level maintained by the district, from the date of the application for the site or for the plans and specifications, there will be sufficient enrollment in the district, based upon enrollment projection criteria adopted by the board, to show the need of such site or for the plans and specifications, it may approve the application. The board may modify a determination respecting future enrollment in connection with an application for an elementary grade level maintained by the district to utilize a period of seven years from the date of the application if it is necessary to meet the emergency conditions existing in that certain district due to a rapid increase in the enrollment of pupils, or due to the scarcity of land within the district, or both. Any application referred to the board pursuant to this section may be either approved in whole or in part, not exceeding the amount applied for, as the board may deem appropriate, pursuant to Sections 16024 and 16035, except that the board may approve additional portions of an application and make an additional apportionment or apportionments within five years of the original approval without requiring a district to issue additional bonds. No additional approval pursuant to the original application or apportionment thereunder may be made unless the board first has investigated and determined the necessity of such additional approval or apportionment, and has received a report thereon from the Department of Education. Any provision of Section 16024 inconsistent with this section shall not apply to such application. As used in this section, and "elementary grade level maintained by the district" is a grade level composed of the grades and maintained by the districts specified in (1) of subdivision (e) of Section 16002. As used in this section a "high school grade level maintained by the district" is a grade level composed of the grades and maintained by the districts specified in (2) of subdivision (e) of Section 16002.

(b) Section 16007 does not apply.

(c) An application for a site pursuant to this section may include an amount for the preparation of plans and specifications for school facilities and for the development of the site, which will conform to those eligible for construction under this chapter.

(d) If the application is approved and an apportionment granted therefor the district shall repay the full amount of such apportionment and the interest thereon. The repayment of the apportionment for a site and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January

of the fiscal year next succeeding the fiscal year in which such apportionment became final. The repayment of the apportionment for plans and specifications, and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the second fiscal year succeeding the fiscal year in which such apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. Such repayment is in addition to any other repayment required under this chapter. If an apportionment is granted pursuant to this section for a site and such site is subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, or if an apportionment is granted pursuant to this section for plans and specifications and such plans and specifications are subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, the district shall not be required to make any further repayments for the site, or the plans and specifications, as the case may be, pursuant to this section and the unpaid balance of the apportionment and interest owing on the apportionment for the site, or the plans and specifications, as the case may be, pursuant to this section shall be added to the principal amount of the apportionment and accrued interest thereon for the construction project. Such site shall be deemed to be "subsequently used in a construction project" within the meaning of the preceding sentence, if it is used in connection with a construction project at the same grade level by any district receiving a construction apportionment therefor, this being not intended as a change in the present law, but as a statement of the existing law. In addition, such site shall be deemed to be "subsequently used in a construction project" within the meaning of such reference, if it is used in connection with such construction project by any district receiving a construction apportionment therefor at a different grade level, providing that in such latter instance the board in its discretion consents by resolution to the combination of such site and construction apportionments.

16040. In any month in which the priority point procedures prescribed by Section 16007 are utilized, the board may apportion to school districts, under Section 16039, not more than the sum of four hundred thousand dollars (\$400,000).

16041. If an apportionment is or has been made at any time after September 9, 1953, for construction on a site for which an apportionment was made pursuant to Section 16039, from and after the date said apportionment for construction becomes, or became, final, no repayment deductions by the Controller pursuant to Section 16080 attributable to the apportionment for said site shall thereafter be made, except that any such repayment deductions attributable to such site apportionment which would otherwise be made by the Controller during the fiscal year in which such construction apportionment becomes final shall be made during such fiscal year

only. The balance of the principal amount of the apportionment for said site, and accrued interest thereon, shall be added by the Controller to and become part of the apportionment for construction, as of the date of such apportionment, and repaid in the manner otherwise prescribed by this article. The Controller shall promptly notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of any revision required by this section of any previous computation made by him pursuant to Section 16089.

16042. In addition to any powers granted the board under this chapter, the board shall have authority to make apportionments to school districts for the purchase of sites and construction or purchase of temporary and portable buildings thereon, or for such construction alone, and for the cost of site preparation, including necessary utility costs, in connection with their utilization. The board may establish standards in conjunction with the Department of Education and the board of governors, as appropriate to their jurisdiction, pertaining to said sites and facilities as a condition of making such apportionments.

In addition, the board may expend moneys from the State School Building Aid Fund directly for the construction, acquisition, storage, maintenance and repair of such buildings, and administrative costs relating thereto. In such event the board may lease, sell or transfer under a lease-purchase agreement such buildings to eligible school districts or to county superintendents of schools. Any such agreements with school districts may provide for the payment by the state of site preparation costs, including necessary utility costs, sufficient to permit the utilization of such facilities. Any building leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 39140 to 39155, or 81130 to 81145, inclusive. The consideration payable by either school districts or county superintendents for such facilities shall, as nearly as practicable, reflect an amount which would render to the state a fair return, as determined by the board, on its investment in said facilities and expenditures connected with their utilization, in the light of the benefits conferred by the agreement pertaining thereto.

The county superintendent of schools may contract with eligible school districts respecting and transfer to them by lease, lease-purchase or sale, facilities acquired by him from the board, provided that such agreements are not inconsistent with the rights of the state under any agreement between such superintendent and the board respecting such property. Repayments to the state as due shall be made by the county superintendent from the funds received from the affected school districts, and, if necessary to make the same when due, from the county school service fund, upon which he is authorized to draw requisitions for this purpose. Such fund shall be reimbursed for such withdrawals from any payments made by the

affected districts to the county superintendent not required when made for the discharge of any obligations of the county superintendent hereunder to the state.

No transfer of any property acquired directly by the board to any school district by lease or otherwise shall be made either by the board or county superintendents without the approval of the Department of Education or the board of governors, as appropriate to their jurisdiction, solely as to (1) the property to be transferred, including incidental construction, if any, connected therewith, (2) whether the same shall be by lease or sale, and (3) if less than a sale, the term of such lease, including any contingent or indefinite term.

The board, affected school districts, and county superintendents of schools are authorized to do any and all things necessary to carry out the purposes of this section. Payments required of any affected school districts under any agreement entered into pursuant to this section shall be made promptly when due. Whenever the board deems it economically desirable in the state's interest to do so, it may dispose of any facilities directly acquired by it to any public or private parties in such manner and under such terms as it deems best, providing that such disposition is not inconsistent with any agreements previously entered into under this section.

The term "eligible school districts" as used in this section, shall be deemed to refer to those districts which at the time an agreement contemplated hereunder is entered into would upon proper application have been eligible to receive an apportionment under this chapter, provided that solely for the purpose of determining such eligibility the board, or the county superintendent of schools in agreements with districts hereunder, may waive construction area restrictions pertaining to apportionments under this chapter.

16043. If, after a conditional apportionment has been made to a school district, legal proceedings initiated prior or subsequent to the making of such conditional apportionment prevent the taking, within the period during which the conditional apportionment remains effective under Section 16024, of the actions necessary to permit the conditional apportionment to become final, the conditional apportionment shall nevertheless remain effective for a period of nine months from the date upon which such legal proceedings are finally determined. The amount of the apportionment may be diminished by the board after a second investigation at which the board shall determine whether conditions existing at the time it approved the project for which apportionment was made have so changed that the needs of the district are less than originally determined, and if so, the conditional apportionment shall be reduced by a corresponding amount.

16044. No apportionment shall be made for new construction which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of average daily attendance of the estimated average daily attendance

in excess of that computed in accordance with Sections 16047, 16052, 16053, 16054 and 16055.

As used in Sections 16047, 16052, 16053, 16054 and 16055, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 16053, 16054, and 16055, "attendance center" means a school maintained or to be maintained at a given location within a district. The Department of Education or board of governors as is appropriate to their jurisdiction shall approve or disapprove the allocation by an applicant district of units of estimated average daily attendance among the attendance centers of the district.

To the building area permitted to an applicant school district by Sections 16047, 16052, 16053, 16054 and 16055, there may be added such additional building area as may be required to provide adequate facilities for exceptional children pursuant to Article 3 (commencing with Section 16190) of this chapter.

No estimate of average daily attendance made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, except that an estimate for the purpose of justifying an apportionment for a grade level maintained by a unified district, under an application filed prior to September 15, 1961, or by a high school district composed of grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, or of justifying an apportionment for a unified district for a junior high school or high school project under an application made on or after such effective date shall not be made for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter pupils attending grades 7 and 8 in an elementary district but residing in a high school district which maintains one or more junior high schools shall not be considered in determining or estimating the average daily attendance of the elementary district, unless the elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1959. When such pupils are so considered in determining or estimating the average daily attendance of the elementary district, such pupils shall not be considered in determining or estimating average daily attendance of the high school district in making an apportionment to the high school district for junior high school purposes.

The board shall develop statewide or areawide averages of pupil

occupancy for family dwellings of various sizes and for mobilehomes of various sizes for use by applicant school districts in estimating the average daily attendance of family dwellings and mobilehome parks under construction or newly constructed and never occupied in the district.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

16044. No apportionment shall be made for new construction which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of average daily attendance of the estimated average daily attendance in excess of that computed in accordance with Sections 16047, 16052, 16053, 16054 and 16055.

As used in Sections 16047, 16052, 16053, 16054 and 16055, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance

As used in this section and Sections 16053, 16054, and 16055, "attendance center" means a school maintained or to be maintained at a given location within a district. The Department of Education or board of governors as is appropriate to their jurisdiction shall approve or disapprove the allocation by an applicant district of units of estimated average daily attendance among the attendance centers of the district.

To the building area permitted to an applicant school district by Sections 16047, 16052, 16053, 16054 and 16055, there may be added such additional building area as may be required to provide adequate facilities for exceptional children pursuant to Article 3 (commencing with Section 16190) of this chapter.

No estimate of average daily attendance made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, except that an estimate for the purpose of justifying an apportionment for a grade level maintained by a unified district, under an application filed prior to September 15, 1961 or by a high school district composed of grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, or of justifying an apportionment for a unified district for a junior high school or high school project under an application made on or after such effective date shall not be made for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board

For the purposes of this chapter pupils attending grades 7 and 8 in an elementary district but residing in a high school district which maintains one or more junior high schools shall not be considered in determining or estimating the average daily attendance of the elementary district, unless the elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1959. When such pupils are so considered in determining or estimating the average daily attendance of the elementary district, such pupils shall not be considered in determining or estimating average daily attendance of the high school district in making an apportionment to the high school district for junior high school purposes

The board shall develop statewide or areawide averages of pupil occupancy for family dwellings of various sizes and for mobilehomes of various sizes for use by applicant school districts in estimating the average daily attendance of family dwellings and mobilehome parks under construction or newly constructed and never occupied in the district.

16045. The board by the adoption of rules shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Such rules shall define and provide for the method of determining

building areas that are to be included in whole or in part, or to be excluded from the area of existing adequate school construction.

The board may make exceptions to the provisions of this section or to the rules adopted pursuant to such section when it determines that such will be for the benefit of children affected.

For the purposes of this section, "service area" may be defined as (1) buildings which when constructed were intended to be used for a purpose to which the provisions of Education Code Sections 39140 to 39155, or 81130 to 81145, both, inclusive, would not apply, whether or not such sections were in effect at the time when the building was constructed, or (2) buildings which when constructed were intended to be used for a purpose to which Education Code Sections 39140 to 39155, or 81130 to 81145, both, inclusive, would apply, whether or not such sections were in effect when the building was constructed, but which building has been converted or is intended to be converted, as shown by the application, to use for purposes to which such sections would not apply. Service area may include, but is not limited to, construction used as bus garages, maintenance shops, centrally located district storage and warehouses, custodial houses, utility shelters, administration offices, transformer vaults, and service yards.

In the event that a school district has expended funds for the purpose of constructing buildings used for housing certificated employees of the district and their families, the area of such buildings and the funds expended therefor shall be accounted for in the following manner:

(a) The area of such buildings constructed or acquired with the proceeds of a tax levied under Sections 14200 to 14240, 42200 to 42247, 45020, and 85110 to 85121, inclusive, shall be excluded from the building area of the district.

(b) The area of such buildings constructed or acquired with the proceeds from the sale of school district bonds prior to July 1, 1961, shall be excluded from the building area of the district, however, such bond funds shall not be considered as "eligible bonded debt service" as defined in subdivision (d) of Section 16070 and Section 16084.

The board shall exclude from the building area of a district:

(a) The area of any building which is or will be used exclusively for a parent cooperative nursery education facility, and for no other purpose, and which building at the time of acquisition thereof by the district was incidental to the purchase of a school site and unsuitable for classroom purposes or which was acquired by the district without expenditure of school district funds.

(b) The area of any building which is or will be used exclusively for a preschool educational program facility pursuant to the provisions of Chapter 4 (commencing with Section 54400) of Part 29 of Division 4 of Title 2 of this code, or Chapter 2.5 (commencing with Section 16150) of Part 4 of Division 9 of the Welfare and Institutions Code, or any combination thereof; provided, that the building was

constructed, leased, or purchased with local general funds, or federal or state funds allocated specifically for a preschool educational program.

The area of adequate school construction existing in a district at the time of application shall be initially computed as all of the construction area of a district except (1) such areas as may be eligible for replacement under standards established by the board, and (2) such areas in an existing structurally inadequate building for which an application has been filed for structural rehabilitation or in a building previously structurally rehabilitated under either Chapter 6 (commencing with Section 15700) of this part, inclusive, or Sections 16000 to 16207, inclusive, of the Education Code, that exceeds the maximum building area allowed by Section 16044 for a number of pupils, equivalent to those that could be housed in the building after rehabilitation. The board shall prescribe by rule the method of computing the number of pupils which could be so housed for the purposes of this subsection. If such area of adequate school construction, when added to the minimum facilities needed by the district, results in a total construction area in excess of the amount prescribed in Section 16044, then the board may make the following adjustments to the initial computation or such revisions thereof as the board, in its discretion, deems desirable:

(a) Service areas constructed prior to July 19, 1947, shall be excluded, except as provided in (c) below.

(b) Service areas constructed subsequent to July 19, 1947, shall be recomputed by multiplying the total number of square feet of said service area by the percentage determined from dividing the actual construction cost per square foot as determined by the Director of General Services by the estimated average cost per square foot of the new school facilities for which the district has made application.

(c) If any inadequate nonservice area constructed prior to July 19, 1947, is, or will be, converted to a service area, such area shall be recomputed by multiplying said area by the percentage determined by dividing the depreciated value of said area by the replacement cost as such value and cost are determined by the Director of General Services.

(d) If, after the revised computation of service areas is made as prescribed under subdivisions (a), (b), and (c) of this section, the existing and requested building area of the district is in excess of the schedule set forth in Section 16044, the existing building area of nonservice facilities may be determined on the basis of the number of pupils housed by such facilities at an allowance per pupil which is not more than 25 percent in excess of the amount per pupil prescribed in Section 16044.

The board shall prescribe by rule the method for computing the number of adequately housed pupils for purposes of this subsection.

16046. Any building area excluded from the computation of adequate school building construction by adjustments made under Section 16045 shall not be subsequently included in computing the

area of adequate school construction by reason of its having been converted to usable instructional area used exclusively for vocational educational programs, provided the conversion was accomplished with federal or district funds, allocated specifically for that purpose, other than state apportionment funds or bond funds required to be contributed to the State School Building Aid Program.

16047. There shall be allowed to each district with attendance units of 300 or more in kindergarten and grades 1 to 6, inclusive, a maximum area of 55 square feet for each attendance unit of the district in kindergarten and grades 1 to 6, inclusive.

The maximum total building area per attendance unit allowed to applicant districts with attendance units of less than 300 in kindergarten and grades 1 to 6, inclusive, for such attendance units shall be determined by the board, and shall be building area to provide comparable facilities to those provided by the first paragraph of this section, and shall be the least building area required to house adequately the estimated average daily attendance and the normal instructional and other services.

16048. The area of any building constructed by a school district after September 11, 1957 with funds given or bequeathed to the district after such effective date, and the area of any building given, devised or bequeathed to a school district after such effective date, including any building given to a district by any city, county or political subdivision of this state, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

For the purposes of this section, any building leased to a school district for a term exceeding 24 years and for an annual rental of not exceeding five dollars (\$5), shall be construed as constituting a gift to the district.

16049. The area of any classroom or building used for adult education classes during the regular schoolday, except any such building area that has been constructed or acquired with the proceeds from the sale of school district bonds or state or federal funds allocated to the district under any state school building aid program, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16050. The area of any building, the construction of which was financed by the proceeds from a tax levied pursuant to former Section 16633, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16051. The area of any building which has not been constructed or reconstructed under the provisions of Sections 39140 to 39155, or 81130 to 81145, inclusive, shall not be included in any computation of the area of adequate school construction under this chapter, provided that such area is being used exclusively for adult education classes during the regular schoolday and that the operation of such

classes has been approved by the Department of Education or the board of governors, as is appropriate to their jurisdiction.

16052. There shall be allowed to each district a maximum area of 75 square feet for each attendance unit of the district in grades 7 and 8.

16053. The allowance of maximum area to a district for the attendance units in junior high schools of the district composed of grades 7 to 9, inclusive, or 7 to 10, inclusive, shall be determined pursuant to this section, rather than Sections 16052 and 16054. This section does not apply to junior high schools composed of grades 7 and 8 only.

There shall be allowed to each district a maximum area for the attendance units of the district in junior high schools determined by computing, in accordance with the following paragraph, the number of square feet for the attendance units at each junior high school attendance center of the district, and totaling the number of square feet so determined for all attendance units in all such junior high school attendance centers of the district.

There shall be allowed a maximum area of 75 square feet for each attendance unit of the junior high attendance center in grades 7 and 8. For each attendance unit in grade 9, or grades 9 and 10, as the case may be, at each junior high school attendance center, there shall be allowed a maximum area of a number of square feet equal to the number of square feet which would be allowed under Section 16054 for each attendance unit of an attendance center having a total number of attendance units equal to the total number of attendance units in grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, at the junior high school attendance center. The number of square feet which would be allowed under Section 16054 for each attendance unit of an attendance center shall be computed by determining in accordance with that section the total number of square feet which would be allowed at an attendance center and dividing such total number of square feet by the total number of attendance units at such attendance center.

16054. There shall be allowed to each district a maximum area for the attendance units of the district in grades 9 to 12, inclusive, determined by computing, for the attendance units in grades 9 to 12, inclusive, at each attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area
1-50.....	18,000
51-100.....	18,000 plus 162 for each attendance unit over 50
101-200.....	26,100 plus 99 for each attendance

		unit over 100
201-300.....	36,000	plus 60 for each attendance unit over 200
301-600.....	42,000	plus 54 for each attendance unit over 300
601-1,800 .....	58,200	plus 80 for each attendance unit over 600
Over 1,800.....	154,200	plus 85 for each attendance unit over 1,800

16055. There shall be allowed to each district a maximum area for the attendance units of the district in grades 13 and 14, determined by computing, for the attendance units in grades 13 and 14, at each attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area
1-50.....	18,000
51-100.....	18,000 plus 162 for each attendance unit over 50
101-200.....	26,100 plus 99 for each attendance unit over 100
201-300.....	36,000 plus 60 for each attendance unit over 200
301-400.....	42,000 plus 54 for each attendance unit over 300
401-600.....	47,400 plus 59 for each attendance unit over 400
601-1,800 .....	59,200 plus 88 for each attendance unit over 600
Over 1,800.....	164,800 plus 77 for each attendance unit over 1,800

16056. When a unified district which is otherwise qualified for an apportionment under this chapter applies for an apportionment and the area of adequate school construction existing in any one of the component elementary districts included in the unified district is of such an amount that the district is prevented, by Sections 16044 to 16055 inclusive, from receiving an apportionment, the maximum area of school construction for each unit of attendance, for elementary school construction prescribed by such sections, may be computed separately for each component elementary district without regard to the area of adequate school construction existing in the other component districts, and apportionments made to the unified district on the basis of such separate computations. On

request of the governing board of the unified district the State Superintendent of Public Instruction shall make or cause to be made a survey of building needs in the district and the area computations for elementary school construction. He shall report his findings and recommendations to the board for consideration in connection with any application before the board from the unified school district.

16057. Payment shall be made in accordance with the terms of a final apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of the constitutional amendment of the 1952 Second Extraordinary Session of the Legislature adding Section 2 to Article XVI, for any items approved by the board in such apportionment; provided, however, that where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for such item, either with state funds or with district funds which the district is required to contribute by said apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16058. No apportionment to a school district shall become final unless: (a) the total amount of outstanding bonds of the district exceeds ninety-five percent (95%) of the basic bond requirement of the district on the date the conditional apportionment is made, or (b) if the total amount of the bonds of the district outstanding and unpaid is within twenty-five thousand dollars (\$25,000) of the basic bond requirement of the district, as of the date on which the conditional apportionment is made. At the time the board makes a conditional apportionment pursuant to Section 16024, it shall determine the total amount of bonds which shall be issued and sold by such district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought; provided, that in the event the school district has previously received apportionments, or has become liable for the repayment of an apportionment, such proceeds shall first be applied toward the reduction, in chronological order beginning with the earliest, of any apportionments previously made to the district, or for the repayment of which the district has become liable in whole or in part, before being applied toward the cost of the project for which an apportionment is sought, provided further that no such proceeds shall be applied toward the reduction of any apportionment for a site made pursuant to Section 16039 prior to the combination of such site apportionment with a construction apportionment pursuant to subsection (d) of Section 16039. The amount so determined by the board shall be not less than the minimum amount required for such apportionment to become final under this section. Any apportionment made by the board pursuant to Section 16024 shall be conditioned upon the approval and sale of such bonds by the district. The amount of any apportionment for a construction project made

as a consequence of applying district bond proceeds toward the reduction of prior apportionments pursuant to this section instead of applying the district bond proceeds toward the cost of such construction project, shall be excluded in determining the amount chargeable against the apportionments authorized by the electorate of the district to be accepted, expended and repaid. It is hereby declared that this provision, added by the amendment to this section enacted at the 1958 First Extraordinary Session of the Legislature, is not intended as a change in the law, but rather as a declaration of existing law.

Any provision of this code to the contrary notwithstanding, whenever the electors of a district, subsequent to any requirement by the board for the sale of bonds in connection with an apportionment, authorize the issuance of bonds for any purpose for which an apportionment could lawfully be made, such authorization shall, in addition to the purposes specified, be deemed to constitute the consent of the electors to apply the proceeds of the bonds so required to be sold by the board toward the reduction of any apportionment previously made to such district. Any bond funds used to reduce any apportionment pursuant to this section shall be transferred to the State School Building Aid Fund and shall be available for reapportionment by the board. The amount so determined by the board shall be not less than the minimum amount required for such apportionment to become final under this section. Any apportionment made by the board pursuant to Section 16024 shall be conditioned upon the approval and sale of such bonds by the district.

No apportionment to a school district under this chapter shall become final, nor any agreement authorized by Section 16042 be entered into unless at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend and repay as provided in this chapter an apportionment under the provisions thereof or, with respect to said agreement, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by said agreement, or by any act of its governing board or for which it is responsible, contemplated or permitted thereby. Said election shall be called, held and conducted in the same manner as are elections to authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words:

“Shall the governing board of the district be authorized (1) to accept and expend an apportionment from the State of California under and subject to the provisions of Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1 of the Education Code, which amount is subject to repayment as provided by said chapter, or (2) to enter into an agreement or agreements with the state pursuant to Section 16042 of the Education Code, which will at the time of such agreement or agreements (or at the time of any

subsequent act of the governing board, or for which it is responsible, contemplated or permitted thereby) commit the district to a total expenditure in connection with all such agreements of not more than \_\_\_\_\_ dollars (\$\_\_\_\_\_), or both. Yes \_\_\_\_\_ No \_\_\_\_\_.”

16060. Notwithstanding any provisions of Section 16058, if an applicant district issues and sells bonds prior to an apportionment in an amount which results in its being on the date of such apportionment within five thousand dollars (\$5,000) of the basic bond requirement of the district, and makes the entire proceeds of said bond issue available for the purposes of the apportionment, or as a condition of an apportionment is required by the board to sell bonds to within five thousand dollars (\$5,000) of the basic bond requirement of the district, and to make the proceeds available for the purposes of Section 16058, the district shall remain qualified to receive an apportionment or apportionments prior to the next equalized assessment of the county or counties in which said district is located without being required to issue and sell additional bonds, notwithstanding the retirement of any bonds of the district or territorial changes therein subsequent to any apportionment referred to in this section and prior to such next equalized assessment.

16061. Immediately after the result of the election has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the bonds have been authorized in the amount prescribed by the board and whether the school district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the State Controller. When the bonds authorized have been issued and sold and the proceeds thereof made available for the purposes of the application, the county superintendent of schools shall also certify this fact to the board and the State Controller. Upon the receipt by the board of the certificates stating that the bonds have been issued and sold and the proceeds made available for the purposes of the application, the apportionment shall become final.

16062. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 16058 may be called and held either before or after the making of an apportionment except that no such election shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

16063. Whenever a conditional apportionment has, prior to January 1, 1976, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the State Controller that at an election called, held and

conducted in the district for that purpose, two-thirds of the qualified electors of the district voting thereat authorized the governing board of the applicant school district to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the State Controller that the amount of bonds, if any, required by the board, as a condition to the apportionment becoming final, have been issued and sold and the proceeds thereof made available for the purposes of the application and the board has certified to the State Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

16064. If the board has made an apportionment to a school district after November 1, 1960, upon the condition that the district issue and sell district bonds in an amount prescribed by the board, and an election was heretofore held in the district at which two-thirds of the voters voting on the proposition to authorize the issuance and sale of bonds in an amount sufficient to meet the condition of the apportionment voted in favor thereof, all acts or proceedings heretofore taken by or on behalf of the school district, under any law, or under the color of any law, for the authorization, issuance, sale or exchange of such bonds of such school district for any public purpose are hereby confirmed, validated and declared legally effective. This shall include all acts and proceedings of the governing board of such school district, and of any person or officer, heretofore done or taken upon the authorization, issuance, or sale of such bonds.

All bonds of any such school district heretofore authorized to be issued and hereafter issued and delivered in accordance with such authorization shall be the legal, valid and binding obligations of the district.

As used in this section the word "hereafter" means any time on or subsequent to the effective date of this section and the word "heretofore" means any time prior to such effective date.

16065. Notwithstanding any provision to the contrary after June 28, 1955, at the time the board makes an apportionment, the board, with the approval of the Director of General Services, shall, pursuant to this section, fix the rate of interest to be paid by the district on the sum apportioned to it. The board shall compute the average of the rates of interest which the state pays upon the state school building bonds, authorized by Article XVI, sold at the three sales of state school building bonds occurring immediately prior to the apportionment, or, if the board so determines, at all of the sales of such bonds occurring in the two years immediately prior to the apportionment, giving effect to the price at which the state school building bonds sold at such sales, and the premium, if any paid, thereon. Such average rate shall be adjusted to the next highest

one-tenth of 1 percent to cover the cost of sale and issuance of the bonds and costs of administration. Such adjusted average rate shall be the rate paid by the district on its apportionment, and shall be compounded annually through the 30th day of June of each year.

16066. Apportionments may be made irrespective of whether there is on deposit at the time thereof a sufficient amount in the State School Building Aid Fund to permit the payment of such apportionments. Disbursements may be made under any apportionment which heretofore or hereafter becomes final from any funds in the State School Building Aid Fund; irrespective of whether there exists at the time of such disbursement a sufficient amount in such fund to permit the payment in full of all apportionments previously made; provided, that no disbursements shall be made from any funds in the State School Building Aid Fund required by law to be transferred to the General Fund, or from any moneys therein which the Controller deems necessary to satisfy appropriations from such fund for purposes other than apportionments.

16067. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the Department of Education or the board of governors, as is appropriate to their jurisdiction.

16068. If any school district receives a final apportionment under this chapter and after November 12, 1952, receives money from the federal government as reimbursement for any expenditures by the state or school district for constructing any school facilities included in the construction project for which the district is receiving an apportionment, the amount of the district's annual repayment next succeeding the date on which the district receives such money shall be increased by the amount of the money so received; provided, however, that the annual repayment of the district shall not be so increased where the money received from the federal government constitutes a contribution toward the cost of school facilities which are to be acquired, in part, with an apportionment, and said federal funds are encumbered or expended by the district in accordance with the purposes of the apportionment.

16069. Each district to which an apportionment has been made under this chapter shall repay the principal amount of such apportionment and the accrued interest thereon in the amount and in the manner provided in this chapter.

16070. The following definitions apply to the computation and determinations required to be made under Section 16072, 16074, and 16075, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any

preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of forty cents (\$0.40) on each one hundred dollars (\$100) of assessed valuation, excluding the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district;

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of thirty cents (\$0.30) on each one hundred dollars (\$100) of such assessed valuation;

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of ten cents (\$0.10) on each one hundred dollars (\$100) of such assessed valuation;

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the making of the first apportionment for such grade level to said district under the provisions of this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part, provided that for the purposes hereof the first apportionment made to a district for a grade level after all previous apportionments to said district for that grade level have been repaid in full, excluding apportionments made under Section 16039 and not combined with construction apportionments, shall be deemed to be the "first apportionment for such grade level."

16071. This section applies only to unified school district filing an application on or after the effective date of this section for an apportionment for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, and the repayments required for apportionments made under such applications.

The following definitions apply to the computation and determinations required to be made under Sections 16072, 16074 and 16075, and they apply with respect to such grade level of a unified district for which grade level an apportionment has become final during any preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of eighty cents (\$0.80) on each one hundred dollars (\$100) of assessed valuation, excluding the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district;

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of sixty cents (\$0.60) on each one hundred dollars (\$100) of such assessed valuation; and

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of twenty cents (\$0.20) on each one hundred dollars (\$100) of such assessed valuation.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the

repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the making of the first apportionment for such grade level to said district under the provisions of this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

If the unified district's first apportionment under this chapter was for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, grades 1 to 8, inclusive, grades 7 to 12, inclusive, grades 9 to 12, inclusive, or 7 to 10, inclusive, "eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the indebtedness that was incurred for elementary and high school purposes prior to the making of such first apportionment under this chapter computed as provided in Section 16072 together with the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

16072. On or before the first day of December of each fiscal year, the Director of General Services shall determine for each grade level and certify to the State Controller the eligible bonded debt service for the district, as follows:

(a) He shall determine the amount of the bonded indebtedness that was incurred by the district for each grade level, when bonds were issued and sold for purposes of more than one grade level. When one or more additional apportionments have been made to a grade level of a school district, conditioned upon the issuance and sale of additional bonds of the district or upon the requirement that the proceeds of bonds issued and sold be contributed for the purposes of the application for which the apportionment is made, the Director of General Services shall determine and include in the eligible bonded debt service and in his certificate the amount raised and to be raised by the district during the current fiscal year for the payment of principal and interest on that portion of the additional bonded indebtedness of the district that was incurred for each such grade level as a condition to receiving such additional apportionment or which was incurred for bonds issued and sold, the proceeds of which were required to be contributed for purposes for which the apportionment was made.

(b) If the Director of General Services determines in any fiscal year that the amount certified to the State Controller as the eligible bonded debt service during the last preceding fiscal year is more than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 16070 and subdivision (a) of this section, then the Director of General Services shall subtract from the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the

repayment of such bonded indebtedness and the amount so certified by the Director of General Services.

(c) If the Director of General Services determines in any fiscal year that the amount certified to the State Controller as the eligible bonded debt service during the last preceding fiscal year is less than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 16070 and subdivision (a) of this section, then the Director of General Services shall add to the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of such bonded indebtedness and the amount so certified by the Director of General Services.

(d) If an apportionment has been made to a district for a grade level for which the district also received an apportionment pursuant to Chapter 6 (commencing with Section 15700) of this part, the Controller shall determine the amount of the annual repayment, if any, due from the district during the next succeeding fiscal year for such grade level as required by Chapter 6 (commencing with Section 15700) of this part and such amount shall be included by the Controller in the eligible bonded debt service of the district for that grade level. For an apportionment to a unified district for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, for which an application for an apportionment was filed on or after the effective date of the amendment to this section made at the 1961 session of the Legislature, if an apportionment had also been made to the district pursuant to Chapter 6 (commencing with Section 15700) of this part for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, or 1 to 8, inclusive, or grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, the Controller shall determine the amount of the annual repayment, if any, due from the district during the next succeeding fiscal year for all of such grade levels as required by said Chapter 6 and such amount shall be included by the Controller in the eligible bonded debt service of the district for the grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive.

16073. Whenever (a) a school district which has not sold bonds within two fiscal years immediately preceding the fiscal year in which a repayment computation is made pursuant to this article; and (b) such district is not eligible for deferment under Section 16084 or 16086 and has been required during the fiscal year in which repayment computations are made to issue bonds in order to qualify for an apportionment; and (c) no funds for the required bond issue have been provided during that year in the district's bond interest and redemption fund budget, the Director of General Services shall determine the eligible portion of the amount required from taxes for such required issue during the next succeeding fiscal year and shall certify the amount to the State Controller as additional eligible debt

service prior to the levy of taxes during such fiscal year. The provisions of this section shall apply to the qualifying bond requirements commencing with the 1972-73 fiscal year.

16074. On or before the first day of January of each fiscal year, the State Controller shall compute for each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year the 40-cent tax amount, the 30-cent tax amount and the 10-cent tax amount.

16075. On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year, as follows:

(a) If, for any grade level of a district, the amount of the eligible bonded debt service exceeds the 40-cent tax amount, no annual repayment shall be due the state from such district with respect to such grade level during the next succeeding fiscal year.

(b) If, for any grade level of a district, the 40-cent tax amount is greater than the eligible bonded debt service, the amount of such excess shall constitute the annual repayment due the state with respect to such grade level during the next succeeding fiscal year; except that if the eligible bonded debt service is less than the 10-cent tax amount, the annual repayment shall equal the 30-cent tax amount.

(c) The total repayment for each district is the sum of the annual repayments determined for each grade level of the district under this section.

16076. Whenever the Director of General Services has certified an additional amount of eligible debt service under the provisions of Section 16073, the State Controller shall make a recomputation of the annual repayment and notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the revised repayment. The recomputation and notification shall be completed prior to the date on which the board of supervisors makes the levy of taxes for county purposes.

16077. If an apportionment is made for a project which includes a multipurpose room the board shall determine and specify the portion of the apportionment that is allocated to the cost of the multipurpose room.

If a district receives an apportionment a portion of which is for a multipurpose room it shall repay the principal amount of such portion of the apportionment as an additional payment as provided by this section. Interest on the total apportionment shall be paid as provided in Section 16083. Such repayment is in addition to the repayments required on the total of all apportionments to the district, which shall be repaid as otherwise provided in this chapter.

Notwithstanding the provisions of Sections 16083 and 16087 for cancellation of the principal amount of apportionments the State Controller shall continue to make the deduction provided by Section

16080 during each fiscal year thereafter until the principal amount of the portion of the apportionment that was allocated to the cost of the multipurpose room and was made and disbursed to the district has been withheld, or for an additional period of 10 years, whichever first occurs. At the expiration of 40 years from the first day of July of the fiscal year next succeeding the fiscal year in which such apportionment became final, the unpaid balance of the principal amount of such portion of the apportionment shall be canceled on the books of the State Controller and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

16078. If an apportionment is made to an elementary district for a project which includes space for pupils in grades 7 and 8, who reside in a high school district which maintains one or more junior high schools, the board shall determine and specify the portion of the apportionment that is allocated to the cost of such space.

If an elementary district receives an apportionment, a portion of which is for space for pupils in grades 7 and 8 who reside in a high school district which maintains one or more junior high schools, it shall repay the principal amount of such portion of the apportionment as an additional payment in equal amounts over a 30-year period. Interest on the total apportionment shall be paid as provided in Section 16083. Such repayment is in addition to the repayments required on the total of all apportionments to the district, which shall be repaid as otherwise provided in this chapter.

The State Controller shall make deductions provided by Section 16080 each fiscal year until the principal amount of the portion of the apportionment that was allocated for space for pupils in grades 7 and 8 who reside in a high school district which maintains one or more junior high schools has been withheld.

If an elementary school district has received an apportionment, a portion of which is for space for pupils in grades 7 and 8 who reside in a high school district which maintains one or more junior high schools and subsequently files an application for an apportionment, it may request that space for grades 7 and 8 approved in a previous apportionment be available for grades kindergarten through 6, and that the unpaid amount of the portion of the previous apportionment allocated for grades 7 and 8 be made a part of the new application and apportionment.

16079. Notwithstanding any other provision of this chapter, and regardless of how many apportionments are made to a grade level of a school district under the provisions of this chapter, the total annual repayment for such grade level during any fiscal year, covering all such apportionments, shall not exceed the amount that would be computed under Sections 16070 to 16080, inclusive, for any one of such apportionments.

16080. The State Controller shall, during the next fiscal year following that in which he determines the annual repayment as herein provided, deduct the total amount of the annual repayment

of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund under Sections 46304, 46305, and 41050 or 84503 and 92, Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, inclusive, whichever are in effect; and, on order of the State Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money transferred to the State School Building Aid Fund under the provisions of this section shall be available only for transfer to the General Fund under the provisions of Section 16403.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

16080 The State Controller shall, during the next fiscal year following that in which he determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund under Sections 46304, 46305, 84502, 84503 and 92 or 41050, Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, inclusive, whichever are in effect; and, on order of the State Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money transferred to the State School Building Aid Fund under the provisions of this section shall be available only for transfer to the General Fund under the provisions of Section 16403

16081. Notwithstanding any provision of law to the contrary, whenever in any fiscal year, pursuant to Chapter 5 (commencing with Section 5096), Part 9, Division 1 of the Revenue and Taxation Code, a refund is made or a judgment rendered, as the case may be, for the return of an amount collected as school district taxes levied during a previous year upon secured or unsecured personal property, because it was determined that such property was exempt from taxation, and such property so determined to be exempt equals 1 percent, or more, of the assessed valuation in the school district upon which school district taxes for such previous year were levied, the Controller shall reduce the annual repayment of the district and the amount deducted from the State School Fund apportionment of such district for the fiscal year next succeeding that in which such refund was made or judgment rendered, by that amount by which the annual repayment and deduction of the district would have been reduced for the fiscal year next succeeding that in which such taxes were levied had the assessed valuation upon which such annual repayment was computed not included an amount of assessed valuation equal to the amount of assessed valuation of the property so determined to be exempt.

The amount of annual repayment and deduction, reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089 and 16090 for the fiscal year in which such reduction is made.

16082. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 16070 the difference between the total assessed valuation of

property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954-1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. If such a request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954-1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955-1956 fiscal year on the basis of such reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 16089 of such recomputed annual repayment for the 1955-1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to such district during the 1955-1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction or the board of governors and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district for the first fiscal year or second fiscal year next succeeding that in which such notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089 and 16090 for the fiscal year in which such increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a) hereof, Section 16081 shall not apply with respect to any tax revenues to which subdivision (a) applies.

16083. The State Controller shall make the deduction provided by Section 16080 during each fiscal year, as herein provided, until the principal amount of the apportionment made and disbursed to the district for such grade level, and all accrued interest due thereon, has been withheld; but no interest shall accrue, or become due and payable, to the state with respect to the principal amount of any such apportionment, or any portion thereof, for any period of time following the expiration of 25 years after the first day of July of the fiscal year next succeeding the fiscal year in which such apportionment becomes final. At the expiration of 30 years from the first day of July of the fiscal year next succeeding the fiscal year in which such apportionment became final, any unpaid balance of the principal amount of any such apportionment disbursed to such district, including all interest included in such principal amount as provided in Section 16088, shall be canceled on the books of the State Controller; and the state shall have no further right to the repayment

of such unpaid balance. Notwithstanding the provisions of this section, that portion of the "annual repayment," if any, computed by the State Controller under Section 16075 prior to the date of cancellation of the principal amount of an apportionment under the provisions of this section, which has not been withheld by the State Controller, as provided by Section 16080, prior to the date of such cancellation, shall be withheld by the State Controller, as provided by said Section 16080, subsequent to the effective date of such cancellation; and the amount so withheld shall be credited to the school district in determining the principal amount of the apportionment, including all interest included therein, which is canceled under the provisions hereof. Such grade level shall be excluded from any computations provided under Sections 16070, 16071, 16072, 16074, and 16075, in making the computations, after the effective date of such cancellation, to determine the "annual repayment," if any, that may thereafter be due the state from such school district with respect to other grade levels thereof.

16084. If, on or before June 30th of any fiscal year, the governing board of any school district files a request with the State Controller for a deferment of the annual repayment due from such district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter or Chapter 6 (commencing with Section 15700) of this part, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of such annual repayment, the deferment shall be made in accordance with such determination. The request for deferment, having once been filed with the State Controller, shall remain in effect each ensuing year, and the State Controller shall continue to compute and allow the deferment in accordance with this section each year, until such time as the governing board of the school district files a written request with the State Controller to discontinue the deferment.

As used in the preceding paragraph, "any school district" means a district which is liable for the repayment of the principal amount of apportionments made to the district under the provisions of Chapter 6 (commencing with Section 15700) of this part and which has received a conditional apportionment under this chapter.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district, during the fiscal year in which the annual repayment is to be deducted pursuant to Sections 15735 and 16080, for the payment of principal and interest on (a) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter, (b) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter, and (c) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made

under this chapter. To this amount shall be added the amount required during such fiscal year, for the annual repayment of school building apportionments under Chapter 6 (commencing with Section 15700) of this part of this division and under this chapter. The total of these amounts shall constitute the "basic tax amount."

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under Chapter 6 (commencing with Section 15700) of this part for such grade level. It is hereby declared that this paragraph is not intended as a change in the present law but rather as a declaration of existing law.

There shall be computed the amount which would be produced by a tax of forty-five cents (\$.45) on each one hundred dollars (\$100) of assessed valuation of the district during such year, to be known as the "45-cent tax amount." The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 45-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the State Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the State Controller the amount of bonded debt service included in the "basic tax amount." On or before the third Monday in August of each fiscal year, the State Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the State Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the State Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the "annual repayment" means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 15733 and Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years. Any repayments by a district of a deferred

amount shall be first applied to loans granted under Chapter 6 (commencing with Section 15700) of this part.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 15738 or Section 16083, as the case may be, there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the State Controller, and the provisions of Section 15738 or Section 16083, as the case may be, shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 15739 or 16087, whichever is applicable.

16085. For purposes of computing, under Section 16084, the portion of the annual repayment to be deferred in the case of a unified school district which has applied for and received an apportionment under Section 16003, the "45-cent tax amount" shall be the amount produced by a tax of ninety cents (\$.90) on each one hundred dollars (\$100) of assessed valuation of the district during the year.

16086. The provisions of this section shall apply: (1) to any school district which has succeeded to and become vested with all duties, powers, purposes, jurisdiction, and responsibility with respect to a portion of an apportionment determined or redetermined to have been expended, or to be expendable, for property acquired or to be acquired by it, and which has become liable for a portion of the annual repayment of a portion of an apportionment, as provided in Section 16159; and (2) to any state-aided district a portion of the territory of which was transferred to a district described in (1), above, and in connection with which territory a portion of an apportionment made to such state-aided district has or will be expended for property acquired or to be acquired.

If, on or before June 30th of any fiscal year, the governing board of any such school district files a request with the State Controller for a deferment of the annual repayment due from such district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of such annual repayment, the deferment shall be made in accordance with such determination. The request for deferment, once filed with the State Controller, shall remain in effect in each ensuing year, and the State Controller shall continue to compute and allow the deferment in accordance with this section each year, until such time as the governing board of the school district files a written request with the State Controller to discontinue the deferment.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district during the fiscal year in which the annual repayment is to be deducted pursuant to Section 16080, for the payment of principal and interest on: (a) that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to the portion of the apportionment for which the district has been determined to be liable under Section 16159; (b) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter; (c) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter; and (d) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during such fiscal year, for the annual repayment of school building apportionments under this chapter. The total of these amounts shall constitute the "basic tax amount."

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under this chapter for such grade level.

There shall be computed the amount which would be produced by a tax of forty cents (\$0.40) on each one hundred dollars (\$100) of assessed valuation of the district during such year, to be known as the "40-cent tax amount." The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 40-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the State Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the State Controller the amount of bonded debt service included in the "basic tax amount." On or before the third Monday in August of each fiscal year, the State Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the State Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the State Controller shall make the deferment determination required by this section for each district

requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the "annual repayment" means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 16083 there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the State Controller, and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

16086.5. In any instance where a school district is subject to annual lease payments pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of this division and is also subject to an annual repayment pursuant to Chapter 6 (commencing with Section 15700), or Chapter 8 (commencing with Section 16000) of this part, the annual repayment under said Chapter 6 or said Chapter 8 is subject to deferment as provided for in Section 16086.6.

16086.6. In an instance in which a school district is subject to annual lease payments pursuant to Chapter 22 (commencing with Section 17700) of Part 10 of this division, the basic tax amount referred to in Sections 16084 and 16086 shall be increased by the amount of such annual lease payments. In such cases the "45-cent tax amount" or the "40-cent tax amount" referred to in such sections shall be a "60-cent tax amount" for each grade level operated by the applicant district.

16087. The State Controller shall certify to the board the cancellation of the unpaid balance of the principal amount of such apportionment; and upon receipt of such certification, the board shall, in the name of the state, convey to the district all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to, from money provided by the apportionment covered by such cancellation.

16088. The State Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to each grade level of a district under the provisions of this chapter. He shall compute interest, at the rate fixed by the board, on each amount disbursed by the state pursuant to any

such apportionment, from the date of issuance of the State Controller's warrant covering the payment to the county treasurer of such amount until the first day of July of the fiscal year next succeeding that in which such warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to such apportionment, through the 30th day of the following June of each year, until the principal and interest have been paid, or until the interest ceases to accrue, as provided in this chapter. Interest on unpaid school building aid apportionments shall be computed as if the annual repayment were credited on the first day of July of the fiscal year in which such repayment is withheld.

16089. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the State Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16090. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the State Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the State Controller during the fiscal year in which the tax is levied. Such tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

16091. The board shall prescribe in such detail as it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and such prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for such cause as it sees fit. In determining funds which can be contributed by the district, the board may require the district to contribute unexpended balances of funds earmarked or encumbered by the district for furniture, equipment, or any other lawful purpose; provided, however, that changes or substitutions in the purposes for which such funds were earmarked or encumbered, with respect to such requirement under any apportionment heretofore or hereafter made, may be authorized by the board, or pursuant to its delegation, by the Director of General Services.

16092. Unless the board has received the certificates of the county superintendent of schools required by Section 16061 within nine months from the date of the conditional apportionment, it shall,

at the expiration of said nine months' period, void said conditional apportionment and shall certify this fact to the State Controller. Each final apportionment made by the board under this chapter shall be certified by it to the State Controller who shall from time to time draw his warrant on the State Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of such final apportionment. The warrant shall be exempt from the provisions of Division 4 (commencing with Section 16100) of Title 2 of the Government Code and shall be paid by the State Treasurer from the State School Building Aid Fund.

16093. A state school building fund is hereby created in the county treasury in each county for each school district in such county. The county treasurer of each county shall pay into the state school building fund of each school district, exactly as apportioned by the board, all moneys received by him under this chapter with respect to each such school district.

16094. Interest earned on those portions of deposits in a state school building fund representing allocations from the proceeds of state school construction bonds received by the county treasurer for the benefit of a school district under this chapter shall be paid into the state school building fund created by Section 16093. Such interest which prior to the 1964-65 fiscal year was deposited in the general fund of the school district for which the state school building fund was established shall remain the property of that general fund.

16095. The governing board of each school district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the state school building fund of the district from all other funds of the district in which such moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which such apportionment was made.

16096. A fund in the State Treasury is hereby created, to be known as the State School Building Aid Fund. All money in the State School Building Aid Fund, including any money deposited in said fund from any source whatsoever after November 12, 1952, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

16097. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the state school building fund of the school district exactly as apportioned by the board and only for the purposes for which said moneys were apportioned to the district, and for no other purpose, and shall make such reports relating to the expenditure of such moneys as the board and the State Controller shall require.

16098. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully

to understand the nature of the construction performed by the school districts.

16099. It shall be the duty of the State Controller to make such audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

16100. Whenever the State Controller determines that any money apportioned to a school district has been expended by such school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by Section 16024 of this chapter to be paid therefrom, the State Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of such unauthorized expenditures, or the amount of such excess apportionment, as the case may be. Upon receipt of such notice, such governing board shall order the county treasurer to pay to the State Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in such notice. Such amount shall, upon order of the State Controller, be deposited in the State Treasury to the credit of the State School Building Aid Fund, to be reapportioned by the board.

It shall be the duty of such governing body and the county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

If, upon petition of the district, the State Controller determines that the amount to be included in the county settlement is in excess of the amount that may be paid out of taxes levied at the maximum rate authorized by law (increased by any increase in such rate authorized by the electors of the district pursuant to Section 42202 or 85112), without impairing essential district services, he may provide for the payment of the entire amount or any unpaid balance thereof in not exceeding three consecutive annual payments, commencing with the next school year. Each payment shall be an equal portion of the principal amount, plus accrued interest, and shall be paid not later than January 31st of each school year in which a payment is due. If the district fails to make the payment as specified, the State Controller shall deduct the amount thereof from the February payment made to the district under the provisions of Section 14041.

Deferred payments under this section shall bear interest at the same annual rate of interest as the apportionment from which the unauthorized expenditures or the amounts of excess apportionment were made.

16101. Notwithstanding any provision of law to the contrary, if an apportionment is or has been made at any time after October 1, 1953, to meet a construction low bid and if the State Allocation Board after approving such apportionment revises the apportionment, and the apportionment finally approved reveals that an applicant school district receives excess construction area to what they are entitled to pursuant to Section 16044, and if a judgment for the collection of such excess apportionment has not been rendered by a court prior to September 11, 1957, such excess apportionment shall be computed by the State Controller and shall be repaid pursuant to this section. The district shall repay the amount of excess apportionment, and the interest thereon, in equal annual installments within 20 years from the date it receives the excess apportionment. The rate of interest shall be the same rate as that fixed for the approved apportionment. The district may at any time before the end of the 20-year period for repayment elect to repay, and repay, the balance of the excess apportionment then unpaid, plus interest computed to the date of repayment of such balance.

16102. If the board, between April 5, 1963, and July 1, 1963, approves an application for an apportionment and makes a conditional apportionment to the district making the application and if after such approval it is determined that the projected enrollment of the district is less than that upon which the district's application was based, any apportionment made by the board under such application is hereby ratified and confirmed and payments shall be made to the district pursuant to such apportionment. The board shall as a condition to any apportionment made under such application require the district to repay in full that portion of the apportionment which it determines to be attributable to the excess projected enrollment upon which the application was based and the district shall be empowered and obligated to comply with such requirement if it accepts such portion of the apportionment. Such repayment shall be in equal annual installments made within 20 years from the date the district receives the apportionment. Such repayment shall be in addition to any other repayment required by this chapter. The rate of interest shall be the same rate as that fixed for the remainder of the apportionment.

If at any time the board determines that the amount of actual enrollment of the district attains the amount of the projected enrollment upon which the district's application, referred to above, was based, the board may, if it determines that the inclusion of such excess projected enrollment in the application occurred inadvertently, provide that the district shall not be required to pay any further installments for full repayment of that portion of the apportionment attributable to the excess projected enrollment and the unpaid balance of such portion and interest thereon shall thereafter be repaid under the same terms and in the same manner as the balance of the apportionment made under such application.

16103. If a school district entered into an agreement at any time beginning on October 1, 1954, and ending on December 31, 1954, whereby it agreed to lease a site and facilities situated thereon, for the purpose of constructing administrative facilities on the site in accordance with plans prepared by or for the district, the State Allocation Board may make an apportionment to the district for the acquisition of the site and facilities; provided, (1) that the district at the time of receiving the apportionment would otherwise be eligible to receive an apportionment for square footage of building area equal to or exceeding that of the facilities to be constructed; (2) the Department of Education approves of the acquisition on the basis that it is necessary to provide needed administrative facilities for the district; and (3) the board finds that the acquisition and the consideration being paid therefor is economically feasible and constitutes sound financial practice.

16104. Any portion of an apportionment paid to a school district under this chapter shall be available for expenditure by its governing board for not less than one year nor more than three years, as the board shall determine, after the date on which the warrant covering such portion of the apportionment was issued by the State Controller, provided that no such limitation on expenditure shall be applicable with respect to any items the payment or reimbursement of which is required to be made by special resolution pursuant to Section 16057, whether such special resolution is adopted prior or subsequent to the termination of the period of availability herein specified. For the purposes of this chapter, an apportionment shall be deemed to be expended at the time and to the extent that the amount thereof on deposit in the county treasury has been encumbered by the creation of a valid obligation on the part of the school district. Upon the expiration of its period of availability, the unencumbered balance of any apportionment made under this chapter shall become due and payable to the State of California; and the governing board of the school district and the county treasurer shall pay the amount of such unencumbered balance to the State Treasurer, out of the funds, and in the manner specified in Section 16100 of this code. Such payment shall, on order of the State Controller, be deposited in the State School Building Aid Fund in the State Treasury, to be reapportioned by the board.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state, provided that notwithstanding the above such duties shall not be deemed to exist with respect to any amount heretofore or hereafter due the state occasioned by the termination of the period of availability of expenditure provided by this section where such period of availability of expenditure for the items representing such amount is subsequently made inapplicable by the adoption of a special resolution pursuant to Section 16057.

16105. Whenever a school district receives or has received an

apportionment for or toward the purchase or improvement of realty or personalty (hereafter referred to as "property") and within five years from the date of the written authorization from a duly authorized representative of the board for the expenditure therefor from state funds or from contributable district funds, sells, leases, exchanges or otherwise disposes of such property or any portion thereof without the consent of the board, the board may demand the return of the state apportionment or such portion thereof it deems proper, plus accrued interest at the prescribed rate, less any repayment made prior to such demand by the district on account of said apportionment. A district may not at any time while an apportionment remains unpaid or noncanceled, dispose of any property acquired therefrom without the consent of the board, excepting transfers provided for by Article 15 (commencing with Section 39540) of Chapter 3 of Part 23 of Division 3 of Title 2, or Article 2 (commencing with Section 81310) of Chapter 2 of Part 49 of Division 7 of Title 3, and existing improvements on an acquired site. Such consent may be subject to such conditions as may be imposed, which may include the application of the consideration received in reduction of any apportionments previously made to the district. Any property into which the consideration from such disposition is converted shall be and remain the property of the state as if an apportionment had originally been authorized therefor.

Whenever, in the judgment of the board, a district fails to use property for the purpose or purposes for which an apportionment has been made, within not less than one nor more than five years from the aforesaid authorization, as the board shall determine, the board may demand back the return of the apportionment, or portion thereof, with interest, as specified in the preceding paragraph. The board's interpretation of such "use" in any instance, and whether or not the district has complied therewith, shall be conclusive upon the district affected after a hearing and finding of the board. In addition to the foregoing, the board may at any time subsequent to the expiration of the last mentioned period, while an apportionment remains unpaid or uncanceled, determine that a site or portion thereof, purchased in whole or in part with said apportionment is not being used for the purpose or purposes for which such apportionment was made, which determination shall be conclusive upon the district after a hearing and finding of the board. Pursuant to such determination, the board may direct the sale or other disposition of such site or portion thereof by the state or by the district and apply the proceeds, after deducting expenses it determines necessary to facilitate such disposition, in reduction of said apportionment, plus accrued interest. Any excess shall be applied in reduction of any other unpaid or noncanceled apportionments, plus interest, as the board shall direct, any remaining proceeds thereafter being payable to the district. For the purposes of such determination of disposition, the district shall, whenever directed by the board, convey record title to such site or

portion thereof to the state and/or do any other acts deemed necessary by the board to facilitate such disposition or implement the terms thereof. Any disposition authorized to be made hereunder by the district shall be made in accordance with the procedure prescribed by this code for the disposition of unneeded school property, otherwise as directed by the board, provided that the consideration to be received shall be subject to the approval of the board or its delegate for that purpose.

Written notice of any demand prescribed by this section, setting forth the amount due the state pursuant thereto, shall be furnished by the board to the governing board of the school district, the county superintendent of schools, the county auditor, the county treasurer of the county whose county has jurisdiction over the school district, and the State Controller. Upon receipt of such notice and demand, the governing board of the school district shall order the county treasurer to pay to the State Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in such notice. Such amount shall, upon order of the State Controller, be deposited in the State Treasury to the credit of the State School Building Aid Fund, to be reapportioned by the board.

Whenever a school district receives or has received an apportionment under this chapter for the purchase of a site which contains existing improvements, the board may require the district to dispose of such existing improvements as a condition of receiving an apportionment in such manner as the board deems proper, and contribute the net proceeds therefrom or the value of any consideration received therefor, in reduction of any apportionment. In the event that the district is not so required to dispose of such existing improvements but after receiving such apportionment subsequently disposes thereof, the net proceeds therefrom or the value of the consideration received therefor, shall be contributed by the district in reduction of any remaining indebtedness to the state under this chapter or Chapter 6 (commencing with Section 15700) of this part.

Where a district has been unable to use any building site acquired by an apportionment under this chapter because of the delay of the board in acting upon its application for an apportionment for the planning and construction of school buildings on such site, the board may withhold demand for repayment of the apportionment for such building site for a period of not less than one or more than three years after approval of the apportionment for planning and construction.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

Whenever the consent of the board is required in this section, it may be given by written authorization of its authorized representative for that purpose. The provisions of this section,

including the term "apportionment" or "apportionments," shall be deemed to be applicable to apportionments heretofore or hereafter made under this chapter or Chapter 6 (commencing with Section 15700) of this part.

## Article 2. School Housing Aid for Reorganized Districts

16150. (a) As used in this article:

(1) "State-aided district" means a district to which a conditional or final apportionment has been made under this chapter.

(2) "Acquiring district" means a district in which all or a part of, a state-aided district or an applicant district has been included.

(3) "Original district" means a state-aided or applicant district included in whole or in part in an acquiring district.

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

(1) For granting conditional apportionments: the date such action became effective for the purposes of Sections 4062 and 4063.

(2) For making conditional apportionments final: the date such action became effective for the purposes of Sections 4062 and 4063.

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

(1) For granting conditional apportionments: the date such action becomes effective for all purposes as specified in Section 4064.

(2) For making conditional apportionments final: the date such action became effective for all purposes as specified in Section 4064.

(3) No conditional apportionment may be made to any original district affected by any reorganization after the date such action became effective for the purposes of Sections 4062 and 4063 except upon an application that has the approval of the governing board of the acquiring district.

16151. On the date an acquiring district becomes effective for all purposes, as specified in Section 4064, the authority to accept a state loan voted by an original district pursuant to this chapter whose boundaries are coterminous with the boundaries of the acquiring district shall become authority of the acquiring district to accept a state loan; provided, however, that when the proceeds of bonds authorized and sold by the acquiring district are applied toward the reduction of apportionments made to an original district which is included in whole in the acquiring district pursuant to Section 16058, such amount of bond proceeds shall be excluded in determining the amount chargeable against any apportionment authorized to be accepted by the electorate of the original or acquiring district.

16152. Notwithstanding any other provision of this chapter, where an election is or has been held after April 1, 1972, in two

elementary districts for the purpose of forming a new elementary district from the territories of such districts, which reorganization would become effective for all purposes on July 1, 1973, and where one of said districts has prior to April 1, 1972, voted to accept, expend, and repay apportionments under this chapter but no such apportionments pursuant to such authorization has been made to said district as of April 1, 1972, the consent of the electors in said districts to the reorganization shall be deemed to constitute a consent on behalf of the newly formed district to accept, expend, and repay apportionments under this chapter to the extent that the former authorization for apportionments had not been utilized.

Further, the ballot for the election held for the purpose of forming the new elementary school district shall contain a statement to the effect that approval of reorganization shall be deemed to constitute a consent on behalf of the newly formed district to accept, expend, and repay apportionments under this chapter to the extent that the former authorization for apportionments has not been utilized.

16153. Whenever, prior to the date on which a conditional apportionment is made by the board to an applicant district, (1) if an applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no apportionment shall be made to the applicant district; (2) if less than the whole of an applicant district is included in a district which is ineligible for an apportionment under this chapter, the board may reconsider the application of the applicant district and make such determinations and take such action with respect thereto, including the making, subject to Article 1 (commencing with Section 16000) of this chapter, of a conditional apportionment to such district, as the board may deem necessary because of such inclusion of less than the whole of the applicant district in the acquiring district; (3) if an applicant district is annexed to or otherwise included in whole or in part in a district which is eligible for an apportionment under this chapter and has made or does make an application for such an apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter, of conditional apportionments to such districts, as the board may deem necessary because of such annexation or other inclusion in the acquiring district of the applicant district in whole or in part.

16154. Whenever, subsequent to the date on which a conditional apportionment is made by the board to an applicant district, but prior to the date on which said conditional apportionment becomes final, (1) if an applicant district is annexed to or otherwise included in whole in a district which is not eligible for an apportionment under this chapter, such conditional apportionment shall, notwithstanding any other provisions of this chapter, become void and the board shall promptly notify the State Controller in writing

thereof and the date on which the apportionment became void; (2) if the district to which an applicant district is annexed or in which it is otherwise included in whole is eligible for an apportionment, has made or does make an application for such an apportionment under this chapter, the conditional apportionment made to the applicant district shall, notwithstanding any other provisions of this chapter, become void but the board may reconsider the application of the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter except as hereinafter provided, of additional conditional apportionments to the acquiring district, as the board may deem necessary as a result of such annexation or other inclusion in the acquiring district of the applicant district; (3) if less than the whole of an applicant district is included in another district, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void, but the board may reconsider the application and make such determinations and take such actions with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter except as hereinafter provided, of new conditional apportionments to the applicant district, as the board may deem necessary as a result of such inclusion of a portion of the applicant district in the acquiring district.

Notwithstanding anything in the first sentence of Section 16058 to the contrary, additional conditional apportionments made to a district under (2), or new conditional apportionments made to a district under (3) of the first paragraph of this section may, with the approval of the board, become final if the total amount of the bonds of the district outstanding and unpaid is within twenty-five thousand dollars (\$25,000) of the amount required under Section 16058.

16155. If before or after the effective date of this section, an annexation or other inclusion of a portion of an applicant district in another district comprises less than 5 percent of the assessed valuation of the applicant district on the effective date of such change, no annexation or other inclusion shall be deemed to have taken place for the purposes of Sections 16154 and 16156.

16156. Whenever, prior to the date on which conditional apportionments have been made to an applicant district for the full amount of state aid approved for the district under Section 16035, (1) if the applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no further apportionment shall be made to the applicant district; (2) if the applicant district is annexed to or otherwise included in whole in a district which is eligible for an apportionment under this chapter and which has made or does make an application for such an apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make such determinations and take such action with respect

thereto, including the making, subject to the provisions of Article I (commencing with Section 16000) of this chapter, of a conditional apportionment or apportionments to such acquiring district as the board may deem necessary because of such annexation or other inclusion in the acquiring district of the applicant district; (3) if a portion of the applicant district is annexed to or otherwise included in another district, the board may reconsider the application of the applicant district and may, within two years after the first apportionment made under said approval, make such additional apportionments as it sees fit to the applicant district, but not in excess of the amount in which such application was originally approved, without requiring the district to issue additional bonds.

16157. Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of such inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to said apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. All amounts which would, after the effective date of such inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to said apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4064, become liable for the annual repayments and other payments due the state under Section 16075 and other provisions of this chapter with respect to said apportionment or the property acquired or to be acquired therewith.

16158. Whenever one or more state-aided districts are included in whole in an acquiring district, and the acquiring district applies for and receives an apportionment, then after the effective date of such inclusion and upon the approval of the application of the acquiring district, the governing board of each component state-aided district shall immediately transfer to the acquiring district all moneys of such component district which are required to be, or have been, earmarked for a project or projects of the district. The acquiring district, upon the transfer to it of such funds, may expend such funds for any projects of the acquiring district as to which its application was approved.

16159. Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of such district is included in another district, the Director of General Services shall determine what portion of such apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this

section may be redetermined by him, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to such final cost. The Director of General Services shall promptly notify the State Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor and the treasurer of the counties having jurisdiction over said districts of each determination and redetermination made by him under this section. No redetermination shall be retroactive nor affect the liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of such district to the state under the provisions of this chapter.

On and after the date of such change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of such portion of the apportionment in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. In addition, and at the same time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event such portion of such apportionment is a lower percentage of such apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other repayments due the state under Section 16075 and other provisions of this chapter with respect to such apportionment which is equal to such percentage of assessed valuation in the territory transferred to the acquiring district. "Annual repayment," as used in this section, refers to repayment computed under Sections 16070 to 16075, inclusive, and excludes amounts for which the state-aided district is liable under the provisions of Section 16039. Whenever a site for which repayments are being made under Section 16039 is transferred to an acquiring district the acquiring district shall be liable for the repayments required under Section 16039.

Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the aforesaid

apportionment made to the aforesaid state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 of the territory referred to. Such limited liability is hereinafter referred to as "the maximum." It is the intent of the Legislature that the maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of such application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at such time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subsection, clause, sentence or phrase of this section is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

16160. Notwithstanding the provisions of Sections 16159 and 16161, in situations where an applicant district at the elementary grade level under this chapter is divided into three parts, each of which is included in a newly formed unified school district, each such part shall be excluded in determining the state loan repayment liability for any apportionment made to the original district subsequent to the date the unification is effective for purposes of Section 4062, provided:

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

(b) The average daily attendance in such part is excluded in determining projected enrollment of the original district for additional state aid during the period after the change is effective for purposes of Section 4062 and prior to the effective date for all purposes.

(c) Such part contains no sites, plans, or school facilities, which were acquired under this chapter or under Chapter 6 (commencing with Section 15700) of this part.

16161. Notwithstanding any change in the boundaries of a state-aided district or the annexation to, or the inclusion in, another

district of a state-aided district, the state-aided district as it existed immediately prior to the effective date of such action shall be continued in existence for the determination of the assessed valuation of the property therein and for the purposes of the computations provided by Sections 16070, 16072, 16074, 16075 and 16084; and all the computations required to be made pursuant to said sections shall be made exactly as if there had been no such change of boundaries, annexation, or inclusion, except as otherwise provided in Sections 16163 and 16164; provided, however, that if a state-aided district shall be included entirely in another school district which subsequently becomes state aided, then the unpaid balances of the apportionments made to the original district shall be added to the balances of the apportionments made to the newly aided district. In such cases, no further computations as aforesaid, or repayments, shall be made with respect to the original district, but such computations and repayments shall thenceforth be based solely upon the territory and assessed valuation of such newly aided district, in the manner provided by Sections 16070, 16072, 16074, 16075 and 16084.

16162. If a unified school district, after the effective date of this section, applies for and is granted an apportionment under this chapter on the basis of grade levels as defined in Section 16003, all unpaid balances of prior apportionments made to the district, subject to the provisions of Section 16161, shall be added to the balances of the apportionments made on the basis of the provisions of Section 16003. In such cases, no further computations or repayments under Sections 16070, 16072, 16074, 16075 and 16084 shall be made with respect to the prior apportionments alone, but such computations and repayments shall thenceforth be based solely upon the combined apportionments, and shall be made as provided in Sections 16071, 16072, 16074, 16075 and 16084.

16163. Whenever, subsequent to the date on which a conditional apportionment becomes final, territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district:

(1) If the acquiring district is a state-aided district, the assessed valuation in the territory acquired shall be included in determining assessed valuation of the property in the acquiring district, and shall thereafter be excluded in determining assessed valuation of the property in the state-aided district, for purposes of the computations under Sections 16070 to 16075, inclusive;

(2) If the acquiring district is not a state-aided district, the State Controller shall determine the percentage relationship, at the time of the withdrawal, between (a) the assessed valuation in the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment under this chapter, and (b) the current assessed valuation of the state-aided district as it was territorially constituted on such latter date.

If the percentage of assessed valuation in acquired territory is, in the aggregate, less than 10 percent, the assessed valuation in all such acquired territory shall be excluded, until the next withdrawal of territory from the state-aided district to the acquiring district, in determining the assessed valuation of the state-aided district for the purposes of the computations under Sections 16070 to 16075, inclusive.

If the percentage of assessed valuation in acquired territory is, in the aggregate, a percentage equal to or greater than 10 percent, the State Controller shall, by deducting such percentage from 100 percent, obtain the "complement percentage." Until the next withdrawal of territory from the state-aided district to the acquiring district, the assessed valuation of the state-aided district for purposes of the computations under Sections 16070 to 16075, inclusive, shall be determined by dividing the current assessed valuation of the state-aided district as territorially constituted immediately subsequent to the last withdrawal, by the complement percentage.

Whenever, pursuant to this section, the assessed valuation of the state-aided district is adjusted for repayment computation purposes by use of the complement percentage, liability for the annual repayment computed shall be apportioned between the state-aided district and the acquiring district by multiplying such annual repayment by the complement percentage, the product representing the liability of the state-aided district, and the remainder of the computed repayment representing the liability of the acquiring district.

Notwithstanding the foregoing, the liability of the state-aided district shall not exceed the product of any "complement percentage" (as it may from time to time exist) times the balance due on the aforesaid final apportionment at the time such complement percentage is established; and the liability of the acquiring district (while a complement percentage remains unchanged) shall not exceed the remainder of the balance of the aforesaid final apportionment at the time such complement percentage is established. The maximum liability on the part of either the state-aided or acquiring districts established as above (and until such time as such liability be altered by altering the "complement percentage") shall be hereinafter referred to in this section with respect to each such district as "the maximum."

(3) In the event that two or more non-state-aided districts acquire territory from the aforesaid state-aided district, the Controller shall determine the formulae for apportioning liability for such annual repayment between the districts affected (including the formulae for determining what assessed valuations shall be used within the affected districts or territories withdrawn, and the dates of determination thereof), as will in his opinion best comply with the principles set forth above, irrespective of whether such formulae are in literal compliance therewith. The same percentage of annual repayment for which a district is liable at the time such a liability

apportionment is made shall (unless and until such liability apportionment is subsequently changed pursuant to this paragraph) be deemed applicable to the liability of such district for the balance (as of the date such liability apportionment is made) due on the final apportionment to the state-aided district. Such liability for such balance shall, with respect to any affected district, be hereinafter referred to as the "maximum" for such district.

(4) It is the intent of the Legislature that the foregoing "maximums" shall be applied by the Controller both retroactively and prospectively, provided that as a result of such application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than its "maximum," assuming this paragraph and others to which it is referable had been in effect at such time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from any other district by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subsection, clause, sentence or phrase of this section is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

16164. Whenever, subsequent to the date on which a conditional apportionment becomes final, any territory is withdrawn from a non-state-aided district and annexed to the state-aided district, the assessed valuation in the territory so annexed shall be included with the valuation of the state-aided district for the purposes of making the computations provided by Sections 16070 to 16075, inclusive.

16165. The State Controller shall compute, in accordance with Sections 16161, 16163 and 16164, the amount of the annual repayment due the state on account of the apportionment or apportionments to each state-aided district and shall deduct from the respective apportionments made from the State School Fund under Sections 46304, 46305, 84502, 84503 and 92 or 41050, Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, inclusive, whichever are in effect, to the state-aided district and an acquiring district the portion thereof for which each is liable under the provisions of this article (Sections 16150 to 16166, inclusive).

16166. When, after any application is filed, the applicant district is annexed to, or, by change of boundaries or otherwise, is included in whole or in part in another district or districts, the superintendent

of schools of the county having jurisdiction over said applicant district shall, within 10 days after the effective date of such annexation, inclusion, or change of boundaries, file a certificate with the board, in writing, in such form as the board shall prescribe, setting forth (1) the effective date of such annexation, inclusion, or change of boundaries; (2) identification of the area of the school district affected by such change and the name of the school district or districts in which such area is included as a result thereof; and (3) such additional information in such form as the board may require.

The board shall, upon receiving the appropriate certificate from a county superintendent of schools as provided herein, promptly notify the State Controller, in writing, of (1) the effective date of annexation or other inclusion of a state-aided district by an acquiring district; (2) the name of the state-aided district; (3) the name of the acquiring district; and (4) the number and other identification of the apportionment affected.

### Article 3. School Housing Aid for Exceptional Children

16190. The board may make apportionments from any sum appropriated by the Legislature at the 1952 Second Extraordinary Session and from any state bonds heretofore or hereafter authorized by the electorate for state school building aid, including the proceeds of bonds authorized by Section 2 of Article XVI of the California Constitution, for assistance to school districts in providing necessary housing and equipment for the education of exceptional children. All the provisions of Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, except Sections 16007 and 16044, shall apply to this article unless otherwise provided herein.

16191. As used in this article, "exceptional children" means physically handicapped pupils, mentally retarded pupils, educationally handicapped pupils, multihandicapped pupils, or pupils enrolled in development centers for the handicapped required or allowed to be educated pursuant to Sections 56700 to 56754, or 78701 to 78726 and 79130 to 79134, Sections 56800 to 56831, Sections 56500 to 56542, inclusive, and Sections 56600 to 56618, or 78601 to 78617.

16192. Allocations under this article for assistance to school districts in providing necessary housing and equipment for the education of pupils enrolled in development centers for the handicapped may be made only to those school districts which receive state funds for the operation of such development centers pursuant to the provisions of Article 1 (commencing with Section 56800) of Chapter 6 of Part 30 of Division 4 of Title 2.

16193. The State Allocation Board, in cooperation with the Department of Education, shall develop standards to be complied with in the construction of housing facilities for development centers for the handicapped with allowances provided pursuant to this article.

16194. The State Allocation Board shall establish guidelines and procedures to be utilized in determining the eligibility of school districts for allowances provided pursuant to this article with respect to facilities and equipment for the education of pupils enrolled in development centers for the handicapped. Such guidelines and procedures shall provide that in order to be eligible to receive such allowance the school district has no existing facilities which could be utilized for a development center for the handicapped.

16195. Allocations under this article may be made in such amount as may be necessary, and in such manner as to distribute the available funds equitably among school districts, giving consideration to the needs of each district and the number of children within each district who are blind, partially seeing, aphasic, deaf, hard of hearing, mentally retarded, orthopedic or other health impaired, multihandicapped, speech handicapped, educationally handicapped, or enrolled in development centers for the handicapped.

In computing the number of such children there shall be included:

- (a) The number of them residing in the district.
- (b) The number of handicapped minors who are actually living within the district five or more days a week, although their legal residence may be outside the district and who are educated pursuant to Section 56708 or 78709.
- (c) The number of them who reside outside of the district, except those described in subdivision (b), and who are to be educated by the district, excluding mentally retarded minors within the provisions of Section 56501 or 78801 who reside within a district having an average daily attendance of 900 or more and which does not meet the requirements of Section 16058 concerning outstanding bonded indebtedness.

Allocations for housing and equipment for minors having speech defects or disorders shall be allowed in new schools constructed after July 1, 1968, and in existing schools constructed between July 1, 1933, and July 1, 1968. Such housing and equipment shall be designed and provided to permit their utilization for remedial and other special services including speech therapy, speech reading (lipreading) and auditory training for the speech and hearing handicapped, screening and testing for speech and hearing defects, or both, psychological testing of exceptional children, subject matter tutoring for exceptional children, and other specialized activities required by such children. In addition to the maximum building area allowances provided in Sections 16047, 16052, 16053, and 16054, not more than an additional 200 square feet of building area shall be allowed for each new school so planned and constructed.

Each existing school, constructed between July 1, 1933, and July 1, 1968, shall be allowed not more than an additional 200 square feet of building area only for construction thereon of a new speech facility. At the option of the applicant district, the board may allocate funds

to convert existing facilities or to provide a combination of new construction and conversion of existing facilities to provide housing for such minors having speech defects or disorders, provided the cost of such conversion or combination of new construction and conversion does not exceed the computed cost for 200 square feet of new classroom construction based upon cost standards adopted by the board. At the further option of the applicant district, and in lieu of new building construction or conversion, the board may allocate funds for the acquisition of mobile speech therapy facilities, provided the cost of such mobile facilities does not exceed the combined computed cost for 200 square feet of new classroom construction, based upon cost standards adopted by the board, at all such schools which will be served by the mobile facility.

16196. Notwithstanding any provisions of this article to the contrary, apportionments for the construction of facilities and the purchase of essential furniture and equipment for the education of exceptional children may, subject to the approval of the Department of Education, be made to any school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, for the education of blind, partially seeing, aphasic, deaf, hard-of-hearing, mentally retarded, orthopedic or other health-impaired, multihandicapped, and educationally handicapped minors, pupils having speech defects or disorders, or pupils enrolled in development centers for the handicapped.

The Department of Education may approve applications in those situations where the facilities will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Section 1850 and mentally retarded minors pursuant to Section 1880. A school district may educate such minors by agreement with a county superintendent of schools required to educate such minors. Priority in the use of such facilities shall be given to pupils from districts other than the applicant district.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in such annual amounts and at such interest rate over such period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by such facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if such district had been required to repay 100 percent of the apportionment over such period.

The county board of supervisors of the county whose

superintendent of schools conducts classes in such facility during any fiscal year shall at such time or times within such fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of such fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of such facility, an amount equal to 80 percent of the amount the district is required to repay in said fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars (\$160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his intention to approve a school district's application for an allocation under this article before he approves the application.

16197. Notwithstanding any other provisions of this article to the contrary, apportionments for the purchase of mobile classrooms for the education of physically handicapped pupils enrolled in integrated programs, as set forth in Section 56702 or 78703, and for the education and therapy of speech-handicapped pupils may, subject to the approval of the Department of Education, be made to any school district not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter for such purpose.

The Department of Education may approve applications in those situations where mobile classrooms will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Sections 1850 and 56701 or 78702. Such mobile classrooms shall be used pursuant to an agreement authorized by Section 41308.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in such annual amounts and at such interest rate over such period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by such facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if such district had been required to repay 100 percent of the apportionment over such period.

The county board of supervisors of the county whose superintendent of schools uses such mobile classrooms during any fiscal year shall at such time or times within such fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of such fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the purchase of such mobile classrooms, an amount equal to 100 percent of the amount the district is required to repay in such fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars (\$160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility including the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his intention to approve a school district's application for an allocation under this article before he approves the application.

The Department of Education shall prepare specifications or regulations for the construction of mobile classrooms to provide for a useful life of no less than 20 years.

The use of mobile classrooms shall meet specifications described by the Department of Education as they relate to the needs of the physically handicapped pupils being served, as set forth in Section 56701 or 78702.

16198. Notwithstanding any provision of law to the contrary, the board shall control the amount of apportionments made for facilities for exceptional children. In so controlling these apportionments the board shall establish allowable building areas and cost standards comparable to the building areas and costs of similar facilities constructed by school districts which are not applicants under this chapter.

16199. The Department of Education may accept applications by school districts for the construction of facilities and the purchase of essential furniture and equipment, under a pilot project to maintain regional programs for physically exceptional children.

The Superintendent of Public Instruction shall establish standards with respect to such regional programs for the pilot project which shall include, among other things, the curriculum to be offered, the area to be served, and the supervision and instruction with respect to the programs. Of the school district applicants which meet the standards established, the Department of Education may designate not more than four school districts to receive apportionments as part of the pilot project to maintain regional programs for physically exceptional children.

The pilot project pursuant to this act shall begin with the 1972-1973

school year and shall terminate at the end of the 1974-1975 school year. The Department of Education shall provide for state evaluation of the pilot project and shall report to the Legislature on an annual basis as to the success of the project and shall make a final report on or before the fifth calendar day of the 1976 Regular Session.

With respect to school districts selected as part of the pilot project, the State Allocation Board may approve applications and make apportionments pursuant to Section 16196, notwithstanding that the school district is serving a district or districts with an average daily attendance in excess of 8,000.

In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by such facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if such district had been required to repay 100 percent of the apportionment over such period.

The districts participating in a pilot project may include in interdistrict attendance agreements the cost of making repayments in the same proportion to the total repayment as the number of pupils enrolled from each district bears to the total number of pupils enrolled.

16200. Notwithstanding any provisions of this article to the contrary, the board may make apportionments to school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter for the construction of special education facilities and the purchase of essential furniture and equipment for the purpose of either or both (1) educating those physically handicapped, mentally retarded, and educationally handicapped pupils who regularly reside in an established, licensed children's institution or family home and are being educated pursuant to Section 42902, and (2) educating handicapped pupils in development centers for handicapped pupils pursuant to Article 1 (commencing with Section 56800) of Chapter 6 of Part 30 of Division 4 of Title 2.

Only 50 percent of any amounts allocated and disbursed to a district under this section shall be repaid by the district. Each disbursement shall be repaid in 20 equal annual installments, including interest as determined by the board, and shall be computed and withheld by the State Controller. The first computation of repayment of any disbursement shall be made in the fiscal year following such disbursement and shall during the next fiscal year be deducted in equal amounts from the February, March, April, and May installments of the apportionment made to the district from the State School Fund under Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, inclusive, whichever are in effect.

16201. Notwithstanding the provisions of Article 1 (commencing

with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, the obligation of any district receiving an apportionment under this article to repay such apportionment shall not extend to more than one-half of the amount of the apportionment.

16202. With the approval of the county superintendent of schools, a school district may make application for an allocation under this article. Facilities for which an apportionment is made under this section shall be made available for use by the county superintendent of schools until he ceases to conduct such classes therein or until the superintendent of schools of a county other than the county whose superintendent of schools approved the application made under this section acquires jurisdiction over the location of such facility, whichever first occurs. Not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Ten percent of the amount of the apportionment shall be subject to repayment by the district to the extent, and in the manner prescribed in Article 1 (commencing with Section 16000) of this chapter for apportionments other than those made pursuant to Section 16039. Forty percent of the amount of the apportionment shall be repaid in full with interest by the district, in such annual amounts and over such period as the board may determine, not to exceed 20 years from the date the apportionment became final. The county board of supervisors of the county whose superintendent of schools conducts classes in such facility during any fiscal year shall at such time or times within such fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of such fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of such facility, an amount equal to the amount the district is required to repay in said fiscal year with respect to the 40 percent of the amount of the apportionment described above.

The county board of supervisors may raise the amount required through a general tax levy or through a tuition charge not to exceed one hundred sixty dollars (\$160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay or through a combination of these.

Upon application of a school district and written approval of the county superintendent of schools the board may amend any apportionment previously received by a district for exceptional children by providing that the same shall be deemed to have been made with reference to this section, in which event all the incidents of this section shall be deemed applicable thereto, except that only the unpaid balance of said apportionment at the time of the aforesaid amendment of the apportionment with interest accrued to said date shall be repaid as prescribed in this section.

The county superintendent of schools shall notify the county board

of supervisors of his intention to approve a school district's application for an allocation under this article before he approves the application.

16203. Not later than July 10th of each year the county superintendent of schools of each county in which there is a school district maintaining facilities for the education of exceptional children which have been constructed with funds apportioned to the district under this article shall certify to the board of supervisors and to the county auditor of the county the total number of units of average daily attendance of pupils enrolled in such facilities during the next preceding fiscal year who reside in a district other than the district maintaining such facilities. On or before July 10th of each year the county superintendent of schools shall notify the governing board of each affected school district of the total number of units of average daily attendance of pupils residing in that district who were in attendance at such facilities maintained by another district.

16204. On or before July 20th of each year, the governing board of a school district which has received a notification pursuant to Section 16203, shall determine, and notify the county board of supervisors and the county auditor, whether the amounts required to be paid on behalf of the district under Section 16207 shall be provided from the general fund of the district or by a special district tax levied by the county board of supervisors.

In the event that the district notification specifies that the amounts so required shall be provided by a special district tax, or if no notification is made, the board of supervisors with whom the certificate prescribed by Section 16203 is filed shall, at the time of making the tax levy for that year for county purposes, levy a special tax upon all taxable property in the district of residence of each pupil enrolled in the facilities other than the district maintaining such facilities, sufficient in amount to raise, for the use of the facilities, the sum of one hundred sixty dollars (\$160) per unit of average daily attendance, less any amounts per unit of such average daily attendance remaining in the county school building aid fund from levies and collections made in any prior year and not paid to the state pursuant to Section 16207.

16205. If the board of supervisors fails to make a district tax levy required under Section 16204, the auditor shall make the levy.

In the event the governing board of a school district has elected to provide from the district general fund the amounts required to be paid on behalf of the district from the county school building aid fund under Section 16207, the county superintendent of schools shall order the payment to be made in the amount required from the general fund of the district.

16206. In the event that the governing board of a school district determines, subject to the approval of the county superintendent of schools, that the amounts collected within the district by special taxes levied pursuant to Section 16204 or Section 16205 and credited to the district in the county school building aid fund are substantially in

excess of amounts required of the district for purposes of Section 16207 for the ensuing three-year period, the county superintendent may order the payment to the district from the county school building aid fund of so much of such excess moneys as he may deem appropriate.

16207. The county auditor shall, not later than the last Monday in December and the last Monday in May of each year, notify the superintendent of schools of the amount in the county school building aid fund. Thereupon the superintendent shall draw his order on the county auditor in favor of the State Treasurer for the amount in the county school building aid fund of the county, except that the total of such orders for any year may be limited to an amount not to exceed the total of one hundred sixty dollars (\$160) for each unit of average daily attendance during the next preceding fiscal year of students residing in a district other than a district maintaining the facilities. Such amount shall be paid by the county treasurer and, upon order of the State Controller, shall be deposited in the State Treasury to the credit of the State School Building Aid Fund. All money paid to the State School Building Aid Fund under the provisions of this section shall be available only for transfer to the General Fund under the provisions of Section 16403, and shall be credited to the repayment of the apportionment of funds to the school district maintaining the facilities.

#### Article 4. School Housing Aid for Compensatory Education Purposes

16210. Not to exceed thirty-five million dollars (\$35,000,000) of the proceeds of the sale of bonds authorized by the State School Building Aid Bond Law of 1966 may be expended pursuant to this article as grants to assist school districts.

Allocations and grants under this article shall be made by the State Allocation Board, upon application of an eligible school district, for the purposes and projects designated by the district and approved by the Director of Compensatory Education. The purposes and projects shall be provided for pupils in any or all of grades kindergarten through 9, inclusive, and for children participating in preschool programs. The Director of Compensatory Education may establish priorities for purposes of allocations and grants under this article based upon comparative needs of school districts and the urgency thereof. No interest shall be charged to a school district for an allocation or grant made under this article to the school district.

16211. Grants may be made pursuant to this article to districts which have been determined to be eligible for an apportionment under Article 5 (commencing with Section 54480) of Chapter 4 of Part 29 of Division 4 of Title 2, or districts maintaining schools for any of grades kindergarten through 6, inclusive, in areas designated pursuant to Section 54482 which have reduced the number of pupils to full-time equivalent classroom teachers in grades kindergarten

through 6, inclusive, in those schools to a ratio of 25 to 1, or better. The grants shall be made for the purposes, and subject to the conditions, following:

For expenditure by the district in areas designated pursuant to Section 54482 for:

(1) Acquisition, by purchase or lease, and the installation and equipping of portable classrooms for classroom instructional purposes.

(2) Acquisition of land for school sites.

(3) Construction and equipping of permanent school buildings and facilities.

(4) Reconstruction, renovation or remodeling of existing school buildings and facilities.

(5) Any combination of the above.

16212. In lieu of grants to districts pursuant to subdivision (1) of Section 6211 for the purpose of acquisition of portable buildings or other facilities and equipment, the board may expend moneys available for grants under this article for the acquisition of portable buildings and facilities and equipment by the state, and thereafter convey the same to the eligible districts. Such conveyance to eligible districts may take the form of sale, lease, outright grant or other suitable form of conveyance, as determined by the board.

16213. In formulating recommendations to the board under this article, the Department of Education, through the Director of Compensatory Education, shall be subject to standards established by rules and regulations of the State Board of Education.

16214. For each school district which receives a grant or allocation pursuant to this article, commencing with the fiscal year next succeeding the fiscal year in which the grant or allocation was received, and for each fiscal year thereafter, the State Controller shall compute an amount equal to one cent (\$.01) on each one hundred dollars (\$100) of the assessed valuation of property within the district. The State Controller shall, during the next fiscal year following that in which he makes the computation pursuant to the preceding sentence of this section, deduct the amount so computed in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund under Sections 41330 to 41343, or 84320 to 84332, inclusive, and Sections 41600 to 41972, or 84700 to 84874, inclusive, whichever are in effect; and, on order of the State Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money transferred to the State School Building Aid Fund under the provisions of this section shall be available only for transfer to the General Fund under the provisions of Section 17204.

The State Controller shall make the computations and deductions required by this section for 30 fiscal years or until such time as the total of the amounts so deducted equal 50 percent of the amount of the grant or allocation which was made to the school district, whichever first occurs.

Notwithstanding any provision of law to the contrary, for each fiscal year for which a computation is made pursuant to the section, the maximum rate of school district tax for the school district for which the computation is made shall be increased by one cent (\$.01) per each one hundred dollars (\$100) of the assessed value of property within the district and shall be in addition to any amount of tax otherwise authorized to be levied, and amounts raised through the levy of such tax may be used to offset any reduction in equalization aid resulting from the deductions made pursuant to this section.

The increase in the maximum school district tax provided by this section shall be deemed to be for bonded debt service or current capital construction. If such 1-cent rate of school district tax levied by the district causes the tax levied by the district for bonded debt service and for current capital construction in the same year to exceed the 40-cent tax amount, as that term is defined by Section 16070 or 16071, whichever is applicable, for each grade level maintained by the district, the State Controller shall not make the deduction otherwise required by this section for such fiscal year.

16215. Sections 16000 to 16006, inclusive, Sections 16009, 16018, and 16021, and Sections 16091 to 16100, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

#### Article 5. School Housing Aid for Districts Impacted by Seasonal Agricultural Employment

16230. Not to exceed one million five hundred thousand dollars (\$1,500,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 which are reserved pursuant to Section 17214 may be expended pursuant to this article.

Nothing in this article shall be construed to sanction, perpetuate or promote the racial or ethnic segregation, or the segregation by economic class, of pupils in the public schools.

The funds shall be expended by the State Allocation Board, for the acquisition of portable school and classroom buildings, and for the expenses incurred in the administration of this article.

The portable school and classroom buildings may be made available by the board, upon the recommendation of the Director of Compensatory Education, to any school district which, because of the influx for temporary periods in the school year of large numbers of persons employed in seasonal agricultural work, experiences emergency increases in school enrollments of such magnitude as to make it impossible or impractical to accommodate the additional pupils in existing school buildings and facilities available to the district.

16231. The portable school and classroom buildings acquired pursuant to this article shall be made available to a school district irrespective of whether the district is otherwise in receipt of or

eligible for assistance under any other provisions of this chapter.

The use of the portable school and classroom buildings may be made available to a school district by letting the same to the district free of charge, or by lease, or by conveying the same to the district under lease-purchase agreement, sale, or outright grant, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education. In addition the use of the portable school and classroom buildings may be made available to a school district by any of the means specified by Section 16041, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education.

16232. The use of the portable school and classroom buildings under this article shall be based upon application therefor submitted by the governing board of the school district to the Director of Compensatory Education, who shall review the same, make any modifications he deems appropriate, and transmit the approved application to the State Allocation Board with his recommendations as to the action to be taken thereon.

16233. If at any time the State Allocation Board shall determine that the need of the district for particular portable buildings which are made available to the district pursuant to this article has ceased, the board may take possession of such buildings on behalf of the state, and may dispose of the buildings to public or private parties in such manner and under such terms as it deems to be in the best interests of the state.

16234. Sections 16000 to 16006, inclusive, Sections 16009, 16018, and 16021, and Sections 16091 to 16100, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

16235. All moneys received from the rental, lease, or sale of portable school and classroom buildings pursuant to this article shall be deposited in the State Treasury and, on order of the State Controller, shall be credited to and in augmentation of the appropriation made by Section 16230.

All such moneys shall be available without regard to fiscal years for repairing, renovating, installing, moving, or maintaining such buildings or for acquiring additional portable school and classroom buildings for the purposes of this article.

#### Article 6. School Housing Aid for a Regional Occupational Center

16250. Not to exceed five million dollars (\$5,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 may be expended pursuant to this article. The funds shall be allocated by the State Allocation Board to a Joint Powers Board of Education for the construction of a permanent campus for a newly created regional occupation center

school to be located in the south bay area of Los Angeles County, having a population in excess of 1,070,000, and a potential average daily attendance in excess of 10,000 persons. Not to exceed four hundred thousand dollars (\$400,000) of such sum shall be allocated and expended for architectural and engineering services in connection with the construction.

Sections 16000 to 16006, inclusive, Sections 16009, 16018 and 16021, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board requires otherwise.

16251. The allocation of funds to the entity pursuant to this article shall be conditioned upon the prior approval of the proposed facilities and subject matter of the educational program by the Superintendent of Public Instruction.

16252. It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction, equipping, and establishment, to serve an area in great need of occupational preparation, of a regional occupational center school to be maintained by a Joint Powers Board of Education and entity. It is the further intent of the Legislature to improve the employment opportunities of persons residing in areas of need for said training, by providing educational programs of a nature that will serve the social and economic needs of that area. The program will also serve to upgrade the cultural and intellectual as well as the economic life of the area to be served.

The Legislature finds that the federal government has made available in the south bay area of Los Angeles County land to be used for a regional occupation center school, provided a permanent campus can be established on the land within 18 months. For this reason, it is essential that the money made available for purposes of this article be allocated to the establishment of a permanent campus for a regional occupational center school in the south bay area of Los Angeles County.

16253. (a) Any amounts allocated and disbursed to said Joint Powers Board of Education and entity pursuant to this article shall be a loan by the state to the entity and shall be fully repaid by the entity to the state within 10 years after the date of disbursement to the entity. Interest shall be paid at a rate determined by the board. Any such loan shall be repaid by the entity from proceeds of a tax under provisions of Section 52317, for sites, buildings and equipment, by a maximum tax levy of the assessed valuation of the entity not to exceed five cents (\$.05) on each one hundred dollars (\$100) of assessed valuation in said entity.

(b) The annual repayment shall be determined by agreement between the Director of Finance and the Superintendent of Public Instruction. The tax revenue referred to in subdivision (a) above shall be transferred by the County Auditor of Los Angeles County to the General Fund of the state in accordance with established regulations and procedures.

## Article 6.5. Fontana Occupational and Vocational Center

16255. Not to exceed four million one hundred seventy-eight thousand dollars (\$4,178,000) of the amount of the proceeds of bonds issued under the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1974 shall be allocated by the State Allocation Board to the Fontana Unified School District for the acquisition of a site and the construction of permanent facilities for a new occupational and vocational center to be located in San Bernardino County. The said funds shall be available for allocation to such school district for a period of not more than four years from the effective date of this article and during such period the district shall apply for such funds as are necessary to accomplish the purposes of this article. Funds may be allocated after such four-year period with respect to contracts executed during such four-year period.

Only Sections 16000 to 16006, inclusive, and Sections 16009, 16018, 16019, 16021, 16080, 16089, 16090, 16093, 16094, 16097, and 16099 of Article 1 (commencing with Section 16000) of this chapter shall be applicable to the administration of this article, unless the context of this article, as determined by the State Allocation Board, requires otherwise.

16256. It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the acquisition of site, construction, equipping, and establishment of an occupational and vocational training center to be maintained by the Fontana Unified School District, to serve an area in great need of occupational preparation. It is the further intent of the Legislature, by this article, to improve the employment opportunities of persons residing in areas of need for such training by providing educational programs of a nature that will serve the social and economic needs of that area. The program provided will also serve to upgrade the cultural and intellectual life, as well as the economic life, of the area to be served.

16257. (a) Any amounts allocated and disbursed to the Fontana Unified School District pursuant to this article shall be fully repaid with interest by the district to the state in 20 equal annual payments commencing with the second fiscal year after the date of disbursement to the district. Interest shall be paid at a rate determined by the State Allocation Board. Any such loan shall be repaid by the district from proceeds of a district tax levied in the manner prescribed in Section 52317, but at a rate on each one hundred dollars (\$100) of assessed valuation in the district sufficient to make the payments required by the board, notwithstanding the limitations contained in Section 52317.

(b) The tax revenue referred to in subdivision (a) shall be transferred by the County Auditor of San Bernardino County to the State Treasury for the credit of the State School Building Aid Fund in accordance with established regulations and procedures.

16258. Funds shall not be made available for allocation under this

article unless, at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting on a proposition therefor have authorized the governing board to accept, expend, and repay as provided in this article such allocation or apportionment. Such election shall be called, held, and conducted in the same manner as are elections to authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words: "Shall the Governing Board of the Fontana Unified School District, for the purpose of providing permanent facilities for a new occupational and vocational center, be authorized to accept, expend, and repay an apportionment from the State of California under and subject to the provisions of Article 6.5 (commencing with Section 16255) of Chapter 8 of Part 10 of Division 1 of Title 1 of the Education Code, in an amount not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_). Yes \_\_\_\_ No \_\_\_\_."

16259. On or before the first day of January of each fiscal year, the State Controller shall determine the annual repayment due.

#### Article 7. Children's Center Construction Law of 1968

16260. This article shall be known as the Children's Center Construction Law of 1968.

16261. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to school districts and to county superintendents of schools for the construction of children's center facilities. Children's centers are of general concern and interest to all the people of the state, and the education and care of children of working parents are a joint obligation of both the state and local agencies operating children's centers.

In enacting this article, the Legislature considers that the greatest need is to provide children's center facilities for the education and care of children during the time the sole parent is at work making the family economically self-sufficient, or is in school or in training to gain economic self-responsibility. The Legislature recognizes the need to encourage the provision of additional children's center facilities to permit more families to become economically self-sufficient.

16262. The following terms, whether used or referred to in this article, have the following meanings, unless a different meaning clearly appears from the context:

(a) "Local agency" means a school district or a county superintendent of schools operating or authorized to operate a children's center pursuant to this chapter.

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

(c) "Project" means the purposes for which a local agency has applied for assistance. A project may include the acquisition and improvement of sites, the planning and construction of permanent facilities, and the acquisition of equipment for children's centers.

(d) "Construction of facilities" means construction of permanent facilities which may include leased portable buildings.

16263. This article shall be administered by the State Allocation Board. The board shall adopt such rules and regulations as it deems necessary to carry out the purposes of this article. The rules and regulations of the board shall establish a system of priorities to determine the relative necessity to establish children's center facilities by a local agency. In establishing priorities with regard to the outlay of capital funds for the construction of new children's centers, or with regard to the rental or leasing of facilities for new centers, the board shall give special consideration to school districts as described under subdivision (a) of Section 54425 which are also certified by the State Department of Health as containing substantial numbers of families who are recipients of aid to families with dependent children or who are former or potential recipients of such aid and who might reasonably be expected to improve their ability to be self-supporting if child care services are made available. The Department of Benefit Payments shall provide the State Department of Health with any information in its possession necessary for the administration of this section.

16264. No local agency shall receive an initial allocation from any appropriation made for the purposes of this article more than an amount to be known as the local agency entitlement. This amount shall be computed as follows:

(a) Determine the percentage that the amount apportioned to the local agency in the previous fiscal year for operation purposes pursuant to Section 8380 bears to the total amount allocated to all local agencies under the same section.

(b) Determine the percentage that the statewide modified assessed valuation per average daily attendance for the grade level involved in the previous fiscal year bears to the assessed valuation per unit of average daily attendance of the local agency. Local agencies other than school districts shall use a percentage of 1.00.

(c) Determine the local agency eligibility factor by multiplying the percentage derived in (a) by that derived in (b).

(d) Determine the local agency entitlement by multiplying the district eligibility factor derived in (c) by the amount appropriated for this purpose.

Amounts of the appropriation initially unallocated may be allocated subsequently without regard to the limitation of the local agency entitlement. Amounts of local agency entitlement not applied for within 90 days of the notification of entitlement, and amounts approved pursuant to Section 16268 but not allocated pursuant to Section 16269, and not made available on an extended basis after one year from the date of the original approval, may also be allocated without regard to the limitation of local agency entitlement.

16265. Any local agency operating or authorized to operate a children's center may apply for assistance under this article to

undertake one or more projects. Any local agency not operating a children's center in the prior fiscal year shall have its eligibility and other factors determined by a method similar to that in Section 16264. Reasonable estimates may be used.

16266. Applications for assistance under this article shall be made on forms prescribed and furnished by the board. Such applications shall include, but not be limited to, the following data and information:

- (a) An outline and general description of the project to be undertaken;
- (b) An estimate of the cost of the project to be undertaken and the anticipated source of funds to complete the project;
- (c) The estimated number of children to be served by the project;
- (d) The waiting list of the local agency for children's centers; and
- (e) The amount expended by the local agency from local sources during the past five years for the provision of children's center facilities.

16267. Not more than 25 percent of any funds available under this article for allocation to local agencies under this article shall be allocated for the reconstruction or rehabilitation of existing children's center facilities. Not less than 75 percent of such funds shall be allocated for the planning and construction of new permanent facilities, including acquisition and improvement of sites and acquisition of equipment for such facilities.

16268. The board shall notify a local agency when a preliminary approval of project has been given, and shall reserve from the appropriation made a sum in the amount of the approval given.

16269. Funds allocated for a project shall be disbursed to the local agency upon certification to the Controller when the executive officer of the board has determined both of the following:

- (a) All required approvals of the projects have been granted; and
- (b) The local agency has subsequent to the effective date of this section, committed the expenditure through the granting of a contract or the authorization of an agreement which requires the payment of funds.

16270. In administering this article, the board shall approve the application. The executive officer of the board shall (a) prescribe and furnish application forms and (b) certify to the Controller the allocation of funds to which a local agency is eligible.

16271. All sites, plans, and specifications of the proposed facilities shall be approved by the Department of Education. Prior to such approval, the local agency shall certify to the Department of Education the unavailability of adequate, alternate facilities in the area to be served by the proposed facilities. Such facilities shall include but not be limited to vacant classrooms, auditoriums, multipurpose rooms, church or recreation facilities.

16272. For each one dollar (\$1) of money allocated to a local agency which is expended for a project, the local agency shall expend local funds for such project in an amount which bears the same

percentage to said one dollar (\$1) as the modified assessed valuation per unit of the average daily attendance of the local agency bears to the statewide modified assessed valuation per average daily attendance of all local agencies. Local agencies other than school districts shall use a percentage of 1.00.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

16272. For each one dollar (\$1) of money allocated to a local agency which is expended for a project, the local agency shall expend local funds for such project in an amount which bears the same percentage to said one dollar (\$1) as the modified assessed valuation per unit of the average daily attendance of the local agency bears to the statewide modified assessed valuation per average daily attendance of all local agencies. Local agencies other than school districts shall use a percentage of 1.00.

Local funds may include amounts received from federal sources for children eligible under subdivision (a), (g), or (h) of Section \_\_\_\_\_, or under Section \_\_\_\_\_ or \_\_\_\_\_.

### Article 7.5. Regional Occupational Center of Kern

16280. Not to exceed six million dollars (\$6,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1974 shall be allocated by the State Allocation Board to the Regional Occupational Center of Kern for the construction and equipping of a new regional occupational center to be located in Kern County. Such funds shall be available for allocation to such entity for a period of not more than four years from the effective date of this article and during such period the entity shall apply for such funds as are necessary to accomplish the purposes of this article. Funds shall be expended after such four-year period with respect to allocations made during such four-year period.

Only Sections 16000, 16001, 16003, 16005, and 16006, and Sections 16009, 16018, 16019, 16021, 16089, 16093, 16094, 16097, and 16099 of Article 1 (commencing with Section 16000) of this chapter shall be applicable to the administration of this article unless the context of this article as determined by the State Allocation Board requires otherwise.

16281. The Legislature finds that the Regional Occupational Center of Kern is comprised of three school districts in Kern County and it provides vocational training in areas of social and economic need. The Legislature further finds that such entity is in need of school building facilities and the participating school districts have levied the permissive override tax authorized by Education Code Section 52317 to meet the cost of such construction. Inflation dictates that construction must begin at the earliest possible time to minimize the overall cost. The Legislature intends, therefore, in enacting this article to make available the necessary funds for immediate construction of the needed school facilities. The Legislature intends, however, that such funds shall be paid back in full with interest as provided by this article so that the taxpayers of this state shall not be

required to pay for the support of such facilities.

16282. Any amounts allocated and disbursed to the Regional Occupational Center of Kern pursuant to this article shall be fully repaid with interest by the entity to the state in 20 equal annual payments commencing with the second fiscal year after the date of disbursement to the entity. Interest shall be paid at a rate determined by the State Allocation Board. Amounts allocated pursuant to this article shall be repaid by the entity from the proceeds of the tax levied by the participating school districts pursuant to Section 52317 and such payments shall be transferred by the County Auditor of Kern County to the State Treasury for the credit of the State School Building Aid Fund in accordance with established regulations and procedures.

16283. If at the time of considering the entity's application the State Allocation Board determines that the revenue to be received from the tax permitted by Section 52317 will be insufficient to pay the principal and interest of the loan in 20 equal annual payments, the board shall approve such application and allocate the funds therefor only upon condition that an election be called by the governing board of the entity and that two-thirds of the qualified electors of the entity voting on a proposition therefor, authorize the governing board to accept, expend and repay as provided in this article such allocation or apportionment. Such election shall be called, held, and conducted in the same manner as are elections to authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words: "Shall the Governing Board of the Regional Occupational Center of Kern, for the purpose of providing permanent facilities for a regional occupational center, be authorized to accept, expend, and repay an apportionment from the State of California under and subject to the provisions of Article 7.5 (commencing with Section 16280) of Chapter 8, Part 10, Division 1, Title 1 of the Education Code, in an amount not to exceed \$\_\_\_\_\_. Yes\_\_\_\_\_ No\_\_\_\_\_"

16284. On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment due.

#### Article 8. School Housing Aid for a Regional Occupational Center in San Joaquin County

16300. Not to exceed two million dollars (\$2,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 shall be expended pursuant to this article. The funds shall be expended under the administrative direction of the State Allocation Board in cooperation with the Board of Education of the Stockton Unified School District for the construction of a permanent campus for a newly created regional occupational center school to be located in San Joaquin County. Not to exceed two hundred fifty thousand dollars (\$250,000) of such sum shall be allocated and expended for architectural and engineering

services in connection with the construction.

Sections 16000 to 16006, inclusive, and Sections 16009, 16018 and 16021, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise. Except to the extent and for the purposes expressly provided herein, the provisions of other articles in this chapter shall not be applicable hereto.

16301. (a) It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction, equipping, and establishment of a regional occupational center to be maintained by the Stockton Unified School District, to serve an area in great need of occupational preparation. It is the further intent of the Legislature, by this article, to improve the employment opportunities of persons residing in areas of need for such training by providing educational programs of a nature that will serve the social and economic needs of that area. The program provided will also serve to upgrade the cultural and intellectual life, as well as the economic life, of the area to be served.

(b) The governing board of any school district maintaining a high school may, pursuant to Section 52301, cooperate with the Stockton Unified School District in the establishment and maintenance of the regional occupational center.

(c) In conjunction with the regional occupational center, regional occupational programs may be established in the Stockton Unified School District and in participating school districts.

(d) The cooperation in the establishment and maintenance of a regional occupational center pursuant to subdivision (b) and the establishment and maintenance of regional occupational programs pursuant to subdivision (c), may be undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

(e) Notwithstanding subdivisions (b), (c), and (d), the Stockton Unified School District has the sole duty to make the repayments to the state specified in subdivision (a) of Section 16302 and the sole duty to the state to operate and manage the regional occupational center and any regional occupational program authorized by this article.

(f) The amount computed for the Stockton Unified School District pursuant to subdivision (a) of Section 42233 shall be deemed to have been increased by the amount raised within the Stockton Unified School District for the support of a regional occupational center and program, except capital outlay expenditures, maintained during the 1972-73 fiscal year by the county superintendents of schools. The other computations required by Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 3 of Title 2 shall be adjusted to appropriately reflect such increase. The revenue limit applicable to the county superintendent of schools shall be reduced by an amount equal to the increase in the revenue limit of the Stockton Unified School District made pursuant to this subdivision.

16302. (a) On the basis of the benefits to be realized by the citizens of City of Stockton and its environs, and particularly the Stockton Unified School District, as specified in Section 16301, the amount allocated and expended pursuant to this article shall be fully repaid with interest by the district to the state in such annual amounts and over such period as may be determined by the board, not to exceed 20 years from the date of the expenditure. Interest shall be paid at a rate determined by the board. The repayment to the state by the district shall be made from proceeds of a district tax levied in the manner prescribed in Section 52317, but at a rate on each one hundred dollars (\$100) of assessed valuation in the district sufficient to make the payments required by the board, notwithstanding the limitations contained in Section 52317.

(b) The tax revenue referred to in subdivision (a) above shall be transferred by the County Auditor of San Joaquin County to the State Treasury for the credit of the State School Building Aid Fund in accordance with established regulations and procedures.

16303. Notwithstanding anything to the contrary contained in Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 3 of Title 2, the district tax authorized by subdivision (a) of Section 16302 may be levied and collected for the purposes specified in that subdivision and the proceeds of the tax shall not be included in any computation prescribed by that article.

#### Article 9. School Housing Aid for Rehabilitation and Replacement of Structurally Inadequate School Facilities

16310. Not to exceed thirty million dollars (\$30,000,000) of the proceeds of the sale of bonds authorized by the State School Building Aid Bond Law of 1966 may be expended pursuant to this article.

16311. Not to exceed two hundred fifty million dollars (\$250,000,000) of the proceeds of the sale of bonds authorized by the School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972 may be expended pursuant to this article.

16312. The Legislature hereby declares that it is in the interest of the state and the people thereof to provide assistance to school districts in rehabilitating or replacing structurally unsafe school facilities inasmuch as the education of children is an obligation of the state, and such obligation carries with it a corresponding responsibility for the physical safety of children while attending school.

16313. It is the intent of the Legislature in enacting this article to provide a means through repayable state loans for school districts not otherwise eligible for assistance under this chapter (consisting principally of school districts in the urban centers of the state), to house their pupils in facilities that are structurally safe.

16314. The following terms, as used in this article, shall have the

following meanings, unless the State Allocation Board finds a different meaning is essential for properly carrying out the purposes of this article, or finds that a different meaning clearly appears from the context:

(a) "Board" means the State Allocation Board as defined in Article 1 (commencing with Section 16000) of this chapter.

(b) "Director" means the Director of Education or the Board of Governors of the California Community Colleges.

(c) "District" means an elementary, high school, unified school district, or community college district.

(d) "Project" means the purposes for which a district has applied for assistance in the rehabilitation or replacement of unsafe school facilities at a given attendance center.

(e) "Apportionment" means an apportionment made under this article, and unless the context otherwise requires, it shall be deemed to include funds of a district required by the board to be contributed toward the cost of a project.

(f) "Attendance center" means a school maintained or to be maintained at a given location within a district.

16315. The State Allocation Board shall administer this article. The Director of General Services shall provide such assistance to the board as it may require.

16316. In addition to such other powers and duties granted to the board by Article 1 (commencing with Section 16000) of this chapter, the board shall:

(a) Establish such qualifications as it deems will best serve the purposes of this article for determining the eligibility of districts to apportionments under this article.

(b) Establish such procedures and policies in connection with the administration of and expenditure of funds made available for the purpose of this article as it deems necessary.

(c) Adopt such rules and regulations for the administration of this article, requiring such procedure, forms, and information as it may deem necessary.

16317. The board, by the adoption of rules, shall give priority in allocating funds to districts which will benefit most from the reconstruction or replacement of schoolhouse facilities. This priority may be based on the age and structural safety of existing buildings at the school or schools where the construction or reconstruction will occur, acuteness of overcrowding and density of population in the attendance areas affected, or such other factors as will insure that the greatest need will be served in allocating funds under this article.

16318. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from such a disposition shall be contributed in reduction of any apportionment proportionate to the state's participating in the project. Any school

district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state by any instruments deemed appropriate by the board, title to any such property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the applicable proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement such disposition.

16319. Apportionments under this article from the State School Building Aid Fund shall be made for the sole purpose of reconstructing or replacing existing substandard buildings that present a potential threat to the safety of schoolchildren and which do not comply with the requirements of Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 of Division 3 of Title 2 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of Division 7 of Title 3 or for the purpose of restoring facilities damaged by an earthquake after February 1, 1971, and for which there are no other state or federal funds available for such restoration. Such apportionments shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board for the following purposes, all of which purposes are declared to be, and are, public works:

(a) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(b) The construction of permanent or temporary school buildings and facilities for replacement purposes.

(c) The acquisition, by purchase or lease, and the installation of classrooms for replacement purposes.

(d) The acquisition and development of school sites necessary for construction of buildings approved under this article.

(e) The construction, repair, attachment, or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made.

(f) The acquisition of such additional furniture and equipment as is deemed necessary by the board to make the rehabilitated or replaced facilities properly function.

(g) Any combination of the above.

Except as is provided in Section 16320, apportionments shall not be made under this article for the purpose of reconstructing or replacing existing substandard buildings which have already been reconstructed or replaced using funds made available under Chapter 1575 of the Statutes of 1947, as amended, or Chapter 5 (commencing with Section 15500), Chapter 6 (commencing with Section 15700), and Chapter 8 (commencing with Section 16000) of this part.

As a part of such purposes, where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction, or alteration for which an apportionment has been

made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering such insurance; provided, that in other respects the apportionments are eligible for payment under provisions of this chapter.

16320. Notwithstanding the provisions of Section 16319, apportionments under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Bond Law of 1966 may be made for the purposes of (1) reconstructing or replacing existing substandard school buildings or high school dormitories that present a potential threat to the safety of schoolchildren and which were not previously constructed or reconstructed in accordance with the requirements of Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2 or which if previously reconstructed to comply with the provisions of said Article 4, no longer meet the standards of structural safety prescribed under the authority of Article 4 in effect on April 10, 1933, or (2) reconstructing or replacing existing structures utilized by a school district as school buildings originally designed to house the United States Cavalry and used as World War II prisoner-of-war camp structures or an existing structure utilized by a school district as a school building which was originally designed as a mess facility for the United States Army Air Corps without regard to conditional or provisional structural approvals received by the district with respect to such buildings prior to the enactment of Chapter 500 of the Statutes of 1972.

Apportionments for the reconstruction or replacement of a dormitory shall only be made when the use and occupancy of the dormitory will be by resident pupils of the district who are in attendance at the high school of the district and when in the judgment of the board such pupils cannot be reasonably expected to travel by vehicle to the school on a daily basis.

16321. Notwithstanding the provisions of Section 16319, apportionments under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Bond Law of 1966 may be made for the purpose of replacing school buildings severely damaged by an earthquake in Sonoma County subsequent to September 30, 1969, and subsequently demolished by the school district in the interest of safety to the children, but not yet replaced by permanent facilities.

16321.5. Notwithstanding the provisions of Section 16319, 16326 and 16330, whenever a school district has had an application approved on July 16, 1974, for reconstruction of structurally inadequate facilities and the school site is one which is located in the Alquist-Priolo Geologic Hazards Zone of the San Andreas Fault and has been deemed by the Office of Architecture in the Department of General Services to be suitable only for low, compact, well-designed temporary school building structures not exceeding two classrooms in size and if there is more than reasonable doubt that

subsurface exploration, including trenching and test borings, could provide conclusive proof that the site would not be damaged by ground rupture in the event of a future major earthquake, then the application of the district and any apportionment made thereon shall be considered as including the acquisition of a new site and construction of new facilities thereon rather than reconstruction of the inadequate facilities on the unsafe site.

In such case the application may be revised and apportionments made to replace all existing permanent facilities which were previously constructed pursuant to Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2 on the new site and to move and reestablish all district-owned portable buildings on the new site, provided that in lieu of the construction and equipping of any portion of the permanent facilities for purposes other than classrooms, the board may, upon application of the district, apportion funds to remodel and equip any of such portables for such purposes, and to construct any portion of such permanent facilities as classrooms. The entire cost of replacing the buildings formerly constructed pursuant to Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2 and the moving or remodeling and equipping, as the case may be, of the district-owned portable facilities may be met only with apportionments from the unassigned balance from thirty million dollars (\$30,000,000) appropriated from the School Building Safety Fund by Chapter 500 of the Statutes of 1972 and conditioned upon the district levying the twenty-cent (\$.20) tax rate permitted under Section 39230 during the 1975-76 fiscal year and applying the proceeds therefrom as matching funds to the application. The net proceeds of the sale of the unsafe site shall be applied as a reduction in the apportionments made.

This section is repealed on July 1, 1976, and shall have no force or effect thereafter.

16322. The Department of Education shall provide the following services to school districts making applications for apportionments under this article:

(a) It shall assist school districts in organizing a comprehensive planning effort. It shall guide a planning process through its appropriate steps and, when requested by a school district, it shall provide the school district with sources of expertise, either public or private, which may be able to contribute to the development of plans to find solutions for specific problems a school district may have.

(b) It shall provide continuing research in relation to all phases of educational programs and the school facilities that are required to implement these educational programs.

(c) It shall provide a review and evaluation service to school districts to assure the effectiveness of the facilities that have been provided in accommodating educational programs.

(d) It shall provide communication media through publications and seminars, and prepare planning guides and procedures

containing recommendations, which guides shall be used to disseminate educational planning information to all school districts.

Unless specifically exempted by the State Allocation Board, each school district which files an application for an apportionment of funds under this article after July 1, 1973, shall prepare and submit to the board either, (1) a long-range comprehensive master plan justifying the application, prepared in accordance with acceptable planning procedures, or (2) a certification to the effect that replacement school buildings for which application has been made will all be located on existing school sites containing a school building or buildings, or (3) a certification that the applicant school maintains only one school. Specific information relating to the following factors must be included in the master plan:

(a) A statement of the educational programs and goals of the district in relation to its programs, both current and future.

(b) A comprehensive evaluation and report of the utilization of the school facilities now existing in the district together with preliminary plans of the facilities to be reconstructed or replaced under this article, prepared in accordance with the requirements of Section 39148 or 81138.

(c) A comprehensive demographic study of the district, as it currently exists and as projected into the future.

(d) A policy statement regarding actual or potential human problems.

(e) A policy statement as to the priority in which the district proposes to solve its school housing problems.

(f) A policy statement regarding cooperation with other local public agencies to achieve total community development.

(g) A policy to insure continuous review so that plans will be kept up to date and changing conditions will be reviewed and accommodated by appropriate revision of plans.

The director shall review the long-range master plan and project development plan and shall report his findings and recommendations thereon to the board. The board shall in no instance approve an application or make an apportionment therefor until it has determined to its satisfaction that the facility for which the apportionment is sought is justified by an appropriate estimate of average daily attendance and location within the district.

16323. Each school district which desires an apportionment shall submit through its governing board to the board an application therefor in such form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment.

Estimates of costs for new construction or equipment appearing in an application shall conform to cost standards adopted by the board under Section 16024.

A school district shall not let any contract for new construction included in an application for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under Section 16024 for such new construction by more than 2 percent or except as otherwise provided in Section 16024. The amount, if any, by which the contract cost exceeds the construction cost standards fixed by the board shall be borne by the school district and shall not be included in the apportionment.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The board shall require such changes in the plans which an applicant school district submits with its application as the board determines is necessary or desirable to reduce the cost of the project.

16324. A school district may at any time file an application or amend or supplement an application. Upon receipt of any application, the Director of General Services shall as promptly as possible prepare a report and recommendation with respect to the application after having received recommendations from the director in respect to any matter which is subject to the jurisdiction or approval of the director or Department of Education. The board shall, subject to the provisions of this article, approve, in whole or in part, or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or such portion thereof as the board may determine appropriate; provided, that it may order that the apportionment or any part thereof shall be paid in progressive installments at such times and under such conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16327 is favorable and if the county superintendent of schools furnishes a certificate satisfactory to the board certifying that there is on deposit in the state school building fund of the district the amount of district funds which, when added to the apportionment computed under Section 16330, will equal the estimated cost of the project approved under Section 16323.

Unless the board has received the certificates of the county superintendent of schools required by this section within nine months from the date of the conditional apportionment, it shall, at the expiration of the nine-month period, void the conditional apportionment and shall certify this fact to the State Controller. Each

final apportionment made by the board under this article, shall be certified by it to the State Controller who shall from time to time draw his warrant on the State Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of such final apportionment. The warrant shall be exempt from the provisions of Division 4 (commencing with Section 16100) of Title 2 of the Government Code and shall be paid by the State Treasurer from the State School Building Aid Fund.

16325. The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount approved for the application from the State School Building Aid Fund for such portion or portions of the project for which the board determines the district is ready to proceed. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments as it deems appropriate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to such district in an amount equal to such excess even though such additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16326. The amount of new building area for which an apportionment may be made for the purpose of replacing unsafe school buildings shall be computed in accordance with regulations adopted by the board. Such regulation shall be based upon the number of units of average daily attendance which were housed in the unsafe buildings being replaced and the building area limitations contained in Sections 16047, 16052, 16053, 16054 and 16055 together with any adjustments necessary to alleviate hardships occurring as a result of only partial replacement of an entire attendance center. In no event shall an apportionment be made for new building area the chargeable area of which exceeds the chargeable area of the unsafe buildings being replaced. The chargeable area of any school building shall be computed in the uniform manner prescribed by the board.

16327. No payment of funds may be made pursuant to an apportionment unless the district holds an election at which the electorate of the district approve the acceptance, expenditure, and repayment of at least the amount apportioned pursuant to this

article. The election may be held prior to or subsequent to an apportionment. If the electors voting at such election fail to approve the proposition by the same majority required at a district bond election, within nine months from the date of the apportionment, the apportionment and the board's approval of the application become null and void.

Notwithstanding the foregoing, an election held prior to the effective date of Article 9 (commencing with Section 16310) of this chapter, pursuant to Section 16058, is valid for the purposes of the foregoing paragraph, provided that the district is not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000), Article 2 (commencing with Section 16150), and Article 3 (commencing with Section 16190) of this chapter.

16328. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment.

16329. Payment shall be made in accordance with the terms of an apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of this article for any items approved by the board in such apportionment; provided, however, that where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for such item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16330. The amount of the apportionment to a school district from the State School Building Aid Fund shall initially be computed by the board as follows:

(a) Determining the ratio which the school district's assessed valuation per pupil for the grade level of the project application bears to the statewide assessed valuation per pupil in that grade level, for the preceding fiscal year.

(b) Subtracting the amount computed under (a) from four.

(c) Dividing the amount computed under (b) by four plus the ratio which the school district's assessed valuation per pupil for the grade level of the project application bears to the statewide assessed valuation per pupil for that grade level, for the preceding fiscal year, which computation shall be denoted the "basic computed state matching ratio of assistance."

(d) The computation prescribed by subdivisions (a), (b), and (c) may be diagrammed as follows, with "A.V." representing the words "assessed valuation," and "a.d.a." representing the words "average

daily attendance.”

$$\begin{array}{l} \text{Basic computed} \\ \text{state matching} \\ \text{ratio of assistance} \end{array} = \frac{4 - \frac{\text{District A.V. per a.d.a.}}{\text{Statewide A.V. per a.d.a.}}}{4 + \frac{\text{District A.V. per a.d.a.}}{\text{Statewide A.V. per a.d.a.}}}$$

(e) The basic computed state matching ratio of assistance for a grade level of a school district shall not be less than 25 percent nor more than 80 percent of the cost of any specific project.

(f) When the final eligible costs of a project have been determined pursuant to the audit prescribed in Sections 16340 and 16099, the amount of the basic computed state matching ratio of assistance to the district shall be adjusted accordingly.

16331. A school district may obtain local funds to match the state assistance with any combination of funds available as follows:

(a) Through the issuance of school district bonds.

(b) Through the levy and collection of school district taxes. For such purposes proceedings may be undertaken pursuant to Section 85112 to increase the maximum tax rate of the district by the amount deemed necessary to produce the required funds. The proceeds of any such increase in the maximum tax rate shall be used exclusively for projects for which an apportionment or apportionments have been made under this article.

(c) Through the levy and collection of school district taxes as authorized by Section 39230 or 81180.

(d) From any other fund available for capital outlay purposes.

16332. Whenever a school district determines that it is in its best interest to provide facilities on a given school site in addition to those contained in the approved application, it may do so, with any excess funds it has available for capital outlay purposes, beyond those required under this article, by adding such excess funds to the total cost of the project. There shall be no penalties imposed under this article as a result of such expenditures.

16333. Whenever a school district has received an apportionment or apportionments of funds pursuant to Chapter 6 (commencing with Section 15700) or Chapter 8 (commencing with Section 16000) of this part, and, through the issuance of bonds, uses such bond proceeds as its source of funds to match its share of the eligible project cost of any project for which an apportionment of funds is made under this article, the amount of such bond funds shall be considered eligible bonded debt service in the computations made by the Director of General Services prescribed in Sections 15729 and 15730 and in Sections 16070 to 16090, inclusive.

16334. The interest on apportionments made under this article shall be established by the board, with the approval of the Director of General Services, as follows:

(1) The interest rate applicable to apportionments made pursuant to Article 1 (commencing with Section 16000) and determined in accordance with Section 16065 shall be established as of June 30 of each year.

(2) The applicable interest rate on June 30 shall apply to apportionments made under this article in the ensuing fiscal year, July 1 through June 30.

(3) Interest on the apportionment shall be compounded annually through the 30th day of June of each year.

16335. Each district to which an apportionment or apportionments has been made under this article shall repay the principal amount of such apportionment or apportionments and the accrued interest thereon in 20 equal annual payments. The first payment shall be made in the second fiscal year following the year in which the apportionment is made. In any year in which the equal annual repayment exceeds that amount which seventeen and one-half cents (\$.175) per one hundred dollars (\$100) of assessed valuation for each grade level (i.e. elementary, high school or community college) operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the seventeen and one-half cents (\$.175) for each grade level would so raise. The amount of the reduction in computed repayment shall be canceled on the books of the State Controller. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each amount if computed separately.

On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year. The computation and collection procedures shall be in accordance with Sections 16080, 16089, and 16090.

16336. Notwithstanding any provisions of this article, any school district which has levied the entire twenty-cent (\$.20) tax rate per one hundred dollars (\$100) of assessed valuation permitted under Section 39230 or 81180 and has declared the entire proceeds therefrom available as local matching funds for a particular project, but lacks sufficient matching funds for such project as required under this article, may file an application thereunder prior to January 1, 1974. Under such circumstances the board may increase the basic computed state matching ratio of assistance in such amount, which, when added to the sum of the entire proceeds of the twenty-cent (\$.20) tax rate and such other funds which in the opinion of the board is or can be made currently available for the project, including funds authorized by the electors from bonds or otherwise, would be necessary to construct minimum essential facilities for the project as determined by the board. Not more than forty-five million dollars (\$45,000,000) available for the purposes of this article may be apportioned for increases in the basic computed state matching ratio pursuant to this section. The source of the forty-five million dollars (\$45,000,000) apportioned for this purpose shall be thirty million dollars (\$30,000,000) previously appropriated for this purpose from the School Building Safety Fund by Chapter 500 of the Statutes of 1972, plus an additional fifteen million dollars

(\$15,000,000) of bond funds remaining from the State School Building Aid Bond Law of 1966.

16337. Notwithstanding any provisions of this article, where less than thirty million dollars (\$30,000,000) has been apportioned or otherwise reserved by the board pursuant to Section 16336 on January 1, 1973, the board shall apportion as grants the remainder thereof under this section for matching purposes pursuant to this article to districts which the board determines has the greatest need. Such apportionments under this section may be made only to those districts (1) which would not have been eligible to apply under Section 16336 if they had levied the entire twenty-cent (\$.20) tax rate specified therein, and (2) which have filed an application by January 1, 1973 and received an apportionment under this article from the board by February 28, 1973.

16338. In the case of a school district which maintains only one school, or a high school district which has applied for an apportionment under this article for the rehabilitation or replacement of not more than one school, there may be included in apportionments made to eligible school districts under Section 16336 or 16337, amounts needed for the purpose of renting or leasing for up to two years temporary or portable school buildings, and necessary sites therefor, to house pupils temporarily displaced by the rehabilitation or replacement of unsafe school facilities if, in the judgment of the State Allocation Board, there are no other practical means of housing the pupils of the school during the period in which the reconstruction or replacement of unsafe school facilities is taking place, or if the nearest school to which pupils may be assigned during the period of construction is 10 or more miles in distance from the school being rehabilitated or replaced.

This section shall remain in effect only until July 1, 1976, and as of such date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends such date.

16339. Notwithstanding any provisions of this article or Section 16336 thereof to the contrary, any school district which lacks sufficient matching funds for a particular project or projects, as required under this article, may file an application and the board may approve a project or projects conditioned upon the district levying, in the 1974-75 fiscal year, the entire twenty-cent (\$.20) tax rate per one hundred dollars (\$100) of assessed valuation permitted under Section 39230 or 81180 and applying the proceeds of such levy as local matching funds for such project or projects.

Under such circumstances, provided such applicant district was not eligible to receive a grant under the provisions of Section 16337, the board may increase the basic computed state matching ratio of assistance in such amount, which, when added to the sum of the entire proceeds of the twenty-cent (\$.20) tax rate and such other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined

by the board. Not more than nineteen million dollars (\$19,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section and in augmentation of the forty-five million dollars (\$45,000,000) made available under Section 16336.

16339.5. Notwithstanding any provisions of this article to the contrary, any district which does not have sufficient matching funds for a particular project as required under this article may file an application under Section 16339, and the board may approve the project conditioned upon the district levying in the 1975-76 fiscal year the entire twenty-cent (\$.20) tax rate per one hundred dollars (\$100) of the assessed valuation permitted under Section 39230.1 in lieu of the tax authorized by Section 16339 and applying the entire proceeds of such levy as local matching funds for such project providing:

(a) The district has levied a tax at the rate of at least ten cents (\$.10) per one hundred dollars (\$100) of assessed valuation of the tax permitted under Section 39230 for the 1973-74 fiscal year and of at least nine cents (\$.09) per one hundred dollars (\$100) of assessed valuation of the tax permitted under Section 39230 for the 1974-75 fiscal year.

(b) The district has sold the facilities to be replaced to a county prior to June 1972, but continued to use the facilities after the sale until June 1972.

16339.6. Notwithstanding any provisions of this article or Sections 16336 and 16339 thereof to the contrary, any school district, which has issued at least thirty-seven million dollars (\$37,000,000) in bonds for the purpose of replacing structurally unsafe buildings and which lacks sufficient matching funds for a particular project or projects, as required under this article, may apply and the board may approve, a project or projects conditioned upon the district having levied or being required to levy, in the fiscal years 1974-75, 1975-76, and 1976-77, the entire twenty-cent (\$.20) tax rate per one hundred dollars (\$100) of assessed valuation permitted under Section 39230 and applying the entire proceeds therefrom as local matching funds to an eligible project or projects.

Under such circumstances, the board may increase the basic computed state matching ratio of assistance in such amount which, when added to the sum of (1) the entire proceeds which have been collected from the aforementioned twenty-cent (\$.20) tax levies at the time of the application and not yet applied as matching funds to previously approved projects and (2) such other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined by the board. Not more than six million dollars (\$6,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section.

16340. Sections 16006, 16017, 16021, 16066, 16088, 16091, and 16093

to 16100, inclusive, shall be applicable to the administration of this article unless the context of this article as determined by the board, requires otherwise.

16341. Whenever a school district receives or has received an apportionment under this article for the purchase of a site which contains existing improvements, the board may require the district to dispose of such existing improvements as a condition of receiving an apportionment in such manner as the board deems proper. Whenever a district sells, leases or disposes of any site acquired under an apportionment or any improvements appurtenant to any site so acquired it shall contribute a portion of the net proceeds therefrom or the value of any consideration received therefor, in reduction of any apportionment, such portion being proportionate to the state's participation in the project.

16342. To determine the effect of school housing aid for reorganized districts, the applicable portions of Article 2 (commencing with Section 16150) of this chapter shall apply.

16343. Whenever a conditional apportionment has, prior to January 1, 1976, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the State Controller that at an election called, held and conducted in the district for that purpose, the qualified electors of the district voting thereat authorized the governing board of the applicant school district, by the same majority vote required at a district bond election, to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the State Controller that the amount of bonds, if any, required by the board, as a condition to the apportionment becoming final, have been issued and sold and the proceeds thereof made available for the purposes of the application and the board has certified to the State Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund or the School Building Safety Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

16344. Notwithstanding the provisions of Section 16319, if a school district otherwise eligible to receive an apportionment under this article operates sufficient continuous school programs (as defined in Chapter 5 (commencing with Section 37600) of Part 22 of Division 3 of Title 2)) to provide housing for students displaced from structurally inadequate facilities, the costs of modifying any existing facilities necessary for the implementation of such continuous school programs shall be eligible, upon the review and recommendation of the Department of Education, for an apportionment under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Law of 1966.

## Article 10. Santa Cruz Regional Occupation Center

16380. Not to exceed two million dollars (\$2,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972 may be expended pursuant to this article. The funds shall be allocated by the State Allocation Board to the Santa Cruz County Career Education Center Joint Power Board, hereafter referred to as the entity, for the establishment and construction of a permanent campus for a regional occupational center, or regional occupational program, to be located in Santa Cruz County, such facility to be operated and maintained by the County Superintendent of Schools of Santa Cruz County and the Cabrillo Community College District. The said funds shall be available for allocation to such entity for a period of not more than three years from the effective date of this article and during such period the entity shall apply for such funds as are necessary to accomplish the purposes of this article. No funds shall be made available for allocation until the voters of the territory to be affected have approved of the repayment of such funds pursuant to Section 16385.

Only Sections 16000 to 16006, inclusive, and Sections 16009, 16018, 16021, 16080, 16089, 16090, 16093, 16094, 16097, and 16099 shall be applicable to the administration of this article except to the extent that the context of this article, as determined by the State Allocation Board, requires otherwise.

16381. It is the intent of the Legislature in enacting this article to make available the necessary funds for the construction, equipping, and establishment of a regional occupational center facility to be used both by the high schools of Santa Cruz County and the Cabrillo Community College District, but to be maintained by the entity, to serve an area in great need of occupational preparation. It is further the intent of the Legislature by enacting this article, to improve the employment opportunities of persons residing in Santa Cruz County by providing educational programs in areas of social and economic need. The program provided will also serve to upgrade the cultural and intellectual life, as well as the economic life, of the area to be served.

16382. Any amounts allocated and disbursed to the entity pursuant to this article shall be a loan by the state to the entity and shall be fully repaid with interest in 20 equal annual payments commencing with the second fiscal year after the date of disbursement. Interest shall be paid at a rate determined by the State Allocation Board pursuant to Section 16065.

16383. On or before the first day of December of each fiscal year, the Director of General Services shall determine and certify to the State Controller the ratio of the assessed valuation of each participating school district, including the Cabrillo Community College District, to twice the assessed valuation of the entire area encompassed by the boundaries of the territory under the

jurisdiction of the entity.

16384. On or before the first day of January of each fiscal year, the State Controller shall determine the annual repayment due and shall compute that portion of such amount applicable to each participating school district, including the Cabrillo Community College District, in accordance with the ratio certified under Section 16383. Each participating school district shall be individually liable for repayment of the amount so computed.

The county superintendent of schools shall reimburse each participating school district for all amounts repaid by them pursuant to this article and may levy a tax under the authority of Section 2503 for this purpose.

Such tax may be levied and collected notwithstanding any limitation prescribed by Article 1 (commencing with Section 2500) of Chapter 12 of Part 2 of this division or by Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

16385. (a) The County Superintendent of Schools of Santa Cruz County shall order a special election to be held in the territory to be affected by the provisions of this article. The special election shall be held in order to give the electors of the territory affected an opportunity to approve or disapprove of a ballot proposition as provided by subdivision (b).

(b) The ballot proposition used in the election shall contain the words "For the repayment of not to exceed \$\_\_\_\_\_ (amount of repayment) for the establishment of the Santa Cruz Regional Occupational Center" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

16386. If at least two-thirds of the electors voting on the ballot proposition, as provided by subdivision (b) of Section 16385, vote "Yes", then the entity shall be permitted to establish the Santa Cruz Regional Occupational Center.

#### CHAPTER 9. STATE SCHOOL BUILDING AID BOND LAW OF 1952

16400. For the purpose of creating a fund to provide aid to school districts of the state, the State School Building Finance Committee, created by Section 15909, shall be and it hereby is authorized and empowered to create a debt or debts, liability or liabilities, of the State of California in the manner and to the extent hereinafter provided, but not otherwise, nor in excess thereof. The State School Building Finance Committee is continued in existence for the purposes of this chapter. The Members of the Legislature of such committee constitute an interim investigating committee on the subject of this chapter and as such shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and the Assembly.

16401. After the approval by the people of the constitutional amendment of the 1952 Second Extraordinary Session of the

Legislature adding Section 2 to Article XVI of the Constitution of the state, and immediately after adoption of any resolution by the State School Building Finance Committee, provided for in Section 16412, the State Treasurer shall arrange for the preparation of the requisite number of suitable bonds of the denomination of one thousand dollars (\$1,000), or multiples thereof, in accordance with the specifications contained in such resolution. The aggregate par value of all bonds issued under this chapter shall not exceed the sum of one hundred eighty-five million dollars (\$185,000,000) and shall bear interest at a rate not exceeding 5 percent per annum. Both principal and interest shall be payable in lawful money of the United States, at the office of the State Treasurer, or at the office of any duly authorized agent of the State Treasurer.

All bonds issued under this chapter shall bear the facsimile signature of the Governor and the facsimile countersignature of the Controller and shall be endorsed by the State Treasurer either by original signature or by a signature stamp, and the bonds shall be signed, countersigned, and endorsed by the officers who shall be in office on the date of issuance thereof, and each of said bonds shall bear an impress of the Great Seal of the State of California. Interest coupons attached to each bond shall bear the facsimile signature of the State Treasurer who shall be in office on the date of issuance of the bond to which said coupons pertain. The bonds or coupons so signed, countersigned, endorsed, and sealed, when sold, shall be and constitute a valid and binding general obligation upon the State of California, although the sale thereof be made at a date or dates upon which the officers having signed, countersigned, and endorsed said bonds or coupons, or any or either of said officers, shall have ceased to be the incumbents of the offices held by them at the time of signing, countersigning, or endorsing said bonds or coupons. Each bond issue under this chapter shall contain a clause or clauses referring to this chapter and to the resolutions of the State School Building Finance Committee hereunder by virtue of which said bond is issued, and if subject to call or redemption prior to maturity, shall contain a recital to that effect.

16402. The State Treasurer shall, on the respective dates of maturity or prior redemption of said bonds, or as soon thereafter as said bonds are surrendered to him, pay the same out of the proceeds of the Controller's warrants drawn in his favor as provided in Section 16403 and perforate the bonds so paid with a suitable device in a manner to indicate such payment on the date thereof. The State Treasurer, or his duly authorized agent, shall also, on the respective dates of maturity, cancel all bonds and appurtenant coupons bearing said dates of maturity and remaining unsold, by perforation with a suitable device in a manner to indicate such cancellation and the date thereof; provided, however, new bonds may be prepared and executed in lieu of bonds canceled solely by reason of the fact that such bonds have not been sold prior to their fixed maturity dates, whenever the State School Building Finance Committee shall

determine such new bonds shall be prepared and executed, subject to the condition the total indebtedness created hereunder shall not exceed the maximum limit herein specified. Not less than four years after the final maturity date of a particular issue of bonds, the State Treasurer, or his duly authorized agent, may destroy or cremate any bonds of such issue which have been previously paid or canceled as hereinbefore provided.

16403. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. There is hereby appropriated from the General Fund in the State Treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, on order of the State Controller, all of the money in the State School Building Aid Fund which was transferred into or deposited in said fund in accordance with the provisions of Section 16080, together with all of the money deposited in the State School Building Aid Fund under Section 16406 which was derived from premium and accrued interest on bonds sold pursuant to said Section 16406; but the amount to be transferred to the General Fund pursuant to this section shall not exceed the principal of and interest on the said bonds then due and payable, except as hereinafter provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity being less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of said State School Building Aid Fund as soon thereafter as it shall become available.

Both principal and interest of said bonds shall be paid when due upon warrants duly drawn against said appropriation from the General Fund by the State Controller in favor of the State Treasurer, or his duly authorized agent, upon claims audited by the State Controller. The State Allocation Board, by resolution approved by the State School Building Finance Committee, shall direct the State Treasurer to call bonds (which are then subject to redemption) if such call is desirable and whenever funds are available to effect such redemption, the part of each issue so called to be not less than all of

the bonds maturing in any one year. Notice of such redemption shall be given by the State Treasurer in the manner provided in the resolution authorizing the issuance of said bonds.

16404. All money deposited in the State School Building Aid Fund under Section 16080 shall be available only for transfer to the General Fund, as provided in Section 16403. When transferred to the General Fund, such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

16405. The sum of seventy-five thousand dollars (\$75,000) was appropriated, by Chapter 28 of the Statutes of 1952 (Second Extraordinary Session), out of the General Fund to be used as a revolving fund to pay the expenses incurred by the State Treasurer in having said bonds prepared and in advertising their sale or their prior redemption. Whenever bond are sold, out of the first money realized from the sale of said bonds, there shall be redeposited in the revolving fund such sum as the State Treasurer has expended for the purpose, which may be used for the same purpose and repaid in the same manner whenever additional sales are made. Whenever all the bonds authorized by this chapter have been sold, said revolving fund shall be refunded to the General Fund in the State Treasury.

16406. The bonds authorized to be issued under this chapter shall be sold by the State Treasurer to the highest bidder for cash at public sale upon sealed bids in such parcels and numbers as the State Treasury shall be directed by the Governor of the state, under seal thereof, but the State Treasurer must reject any and all bids for said bonds, or for any of them, which shall be below the par value of said bonds so offered plus the interest which shall have accrued thereon between the date of purchaser's payment for said bonds and the last preceding interest maturity date; and the State Treasurer may from time to time, by public announcement at the place and time fixed for the sale, continue such sale, as to the whole of the bonds offered, or any part thereof offered, at such time and place as the State Treasurer may select. Each bid shall be in writing and signed by the bidder and sealed, and shall be accompanied by the deposit of a certified check or cashier's check for five thousand dollars (\$5,000), drawn on a bank or trust company authorized to transact and transacting business in the State of California, payable to the Treasurer of the State of California, such deposit not to bear interest. The deposit of each unsuccessful bidder shall be returned to him immediately upon the nonacceptance of his bid, and a deposit of the successful bidder shall immediately upon the acceptance of his bid become and be the property of the State of California and be placed in the State Treasury to the credit of the State School Building Aid Fund, and shall be credited to the successful purchaser upon the purchase price of the bonds bid for in case such purchase price is paid in full by him within the time mutually agreed upon between the

successful bidder and the State Treasurer. If the purchase price is not so paid, the successful bidder shall have no right in and to said bonds or by reason of said bid, or to the recovery of said deposit accompanying said bid, or to any allowance or credit by reason of such deposit unless it shall appear that the bonds would not be validly issued if delivered to the purchaser in the form and manner proposed. In case the purchase price is not so paid, the bonds so sold but not paid for shall be resold by the State Treasurer upon notice as provided in case of original sale.

Temporary or interim bonds, certificates, or receipts of any denomination whatever and with or without coupons attached thereto, to be signed by the State Treasurer, may be issued and delivered until the definitive bonds are executed and available for delivery. Signature of the State Treasurer may be by signature stamp.

16407. All money deposited in the State School Building Aid Fund under the provisions of Section 16406 which is derived from premium and accrued interest on bonds sold pursuant to said section shall be reserved in said fund and shall be available only for transfer to the General Fund, as provided by Section 16403. When transferred to the General Fund, such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the particular issue of school building bonds from the sale of which such premium and accrued interest were derived.

16408. Due notice of the time and place of sale of all bonds shall be given by the State Treasurer by publication in one newspaper published in the City and County of San Francisco, by publication in one newspaper published in the City of Sacramento, and by publication in one newspaper published in the City of Los Angeles pursuant to Section 6066 of the Government Code. In addition to the notice last above provided for, the State Treasurer may give further notice as he may deem advisable, but the expense and cost of such additional notice shall not exceed the sum of five hundred dollars (\$500) for each sale so advertised. The proceeds of the sale of such bonds and such amount as may have been paid as accrued interest thereon shall be forthwith paid over by the State Treasurer into the State School Building Aid Fund and must be used exclusively to aid school districts of the state in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, alteration of, and making additions to, school buildings; provided, that the proceeds from the sale of said bonds may be used to pay the debt created by the issuance and sale thereof, the expense of preparing and of advertising the sale or prior redemption of said bonds, and the actual and necessary expenses of the State School Building Finance Committee.

16409. Upon request of the State Allocation Board, supported by a statement of the apportionments made and to be made under

Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that twenty million dollars (\$20,000,000) will be available for apportionment on May 5, 1953, or as soon thereafter as such bonds can be issued and sold, and so that five million dollars (\$5,000,000) additional will become available for apportionment on June 5, 1953 and on the fifth day of each month thereafter until a total amount of one hundred sixty-five million dollars (\$165,000,000) has become available for apportionment. The remainder of the bonds, or so many thereof as may be necessary shall be issued and sold as provided in Section 16410. Successive issue of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

16410. The Director of Finance shall define and determine the surplus which exists in the General Fund as of June 30, 1953. If the estimated surplus so determined is less than five million dollars (\$5,000,000), the School Building Finance Committee shall issue and sell sufficient bonds, in an amount to the nearest one thousand dollars (\$1,000) but not in excess of twenty million dollars (\$20,000,000), to provide a surplus of five million dollars (\$5,000,000) in the General Fund, and the proceeds of the bonds so issued and sold shall be deposited in the General Fund.

16411. Notwithstanding the provisions of Section 16410, upon order of the Director of Finance, made when in his opinion such action is necessary to meet the needs of the General Fund, the State School Building Finance Committee shall issue and sell bonds in the amount of twenty million dollars (\$20,000,000) authorized by Article XVI, Section 2 of the Constitution. Proceeds of such bonds shall be used to repay the money appropriated from the General Fund at the 1952 Second Extraordinary Session for state school building aid, and shall be deposited in the General Fund.

The Legislature hereby declares that it has authority by virtue of Section 2 of Article XVI of the Constitution to authorize the sale of bonds referred to in the preceding paragraph irrespective of the adoption of the constitutional amendment of the 1958 First Extraordinary Session of the Legislature adding Section 2 to Article XVI of the Constitution, which confirms such authority.

16412. Whenever the State School Building Finance Committee shall have determined that the sale of all or any part of the bonds authorized to be issued under this chapter is necessary or desirable to make such apportionments, in whole or in part, it shall adopt a resolution to this effect. The said resolution shall authorize and direct the State Treasurer to provide for the preparation of the requisite

number of suitable bonds then authorized to be sold and shall specify as to such bonds then to be sold:

1. The aggregate number, aggregate par value, and the date of the bonds to be then sold. The date appearing on said bonds shall be deemed to be the date of issuance for all purposes of this chapter, irrespective of the actual date of delivery of such bonds and the payment of the purchase price thereof. Successive issues of bonds herein authorized shall be identified by the number of the issue, or the entire authorized issue may be divided into series or divisions appropriately identified by letter or number.

2. The date or dates of maturity, and the number and numerical sequence of the bonds maturing at each date of maturity, to be at annual or semiannual intervals.

3. The provisions for the retirement of said bonds at any time or times prior to their maturity, the manner of the call thereof, and the price or prices at which said bonds shall be redeemed.

4. The annual rate, or rates, of interest which the bonds to be issued shall bear, to be in multiples of one-fourth of 1 percent, which rate, or rates, at the discretion of said committee may be determined by the bidder at the time of sale of said bonds, not to exceed 5 percent.

5. The number, numerical sequence, amount or amounts, and dates of maturity of the interest coupons to be attached to said bonds.

6. The technical form and language of said bonds and of the interest coupons to be attached thereto.

In determining the date or dates of maturity of the said bonds and the amount of bonds maturing at each date of maturity, the State School Building Finance Committee shall be guided by the amounts and dates of maturity of the receipts estimated to accrue to the State School Building Aid Fund from the transactions to be financed by each issue, and shall fix and determine said dates and amounts in such manner that, together with the dates and amounts of interest payments on the said bond issue, they shall coincide, as nearly as practicable, with the dates and amounts of such estimated receipts; provided, the bonds first to mature in each issue shall mature not later than five years and the bonds last to mature in each issue shall mature not later than 45 years from the date of issuance thereof.

The rate of interest to be borne by the bonds need not be uniform for all bonds of the same issue or series or division, and may be determined and fixed by the State School Building Finance Committee by resolution adopted at or after the sale of said bonds, but not exceeding in any case 5 percent per annum payable semiannually. The highest bid received on the sale of the bonds shall be determined by deducting the total amount of the premium bid (if any) from the total amount of interest which the state would be required to pay from the date of sale to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid and the award shall be made on the basis of the lowest net interest cost to the state. The lowest net interest cost to the state shall

be computed between the dates aforesaid according to standard bond interest tables. The interest coupons first payable may, if the State School Building Finance Committee shall so determine and specify, be payable at any time within one year after the date of issuance of said bonds.

16413. All actual and necessary expenses of the State School Building Finance Committee and the legislative interim committee and of the members thereof incurred in the performance of their duties arising out of the provisions of this chapter shall be paid out of the State School Building Aid Fund, upon approval of the State Board of Control and on Controller's warrant duly drawn for that purpose.

Whenever the State School Building Finance Committee deems that it will increase the salability or the price of the bonds to obtain a legal opinion as to the validity of the bonds, prior to or after sale, from attorneys other than the Attorney General, the committee may authorize the State Treasurer or the Department of Finance or both to obtain such a legal opinion. Payment for such legal services shall be made from the State School Building Aid Fund, upon approval of the State Board of Control and on Controller's warrant duly drawn for that purpose.

16414. The Controller, the State Treasurer and the State School Building Finance Committee shall keep full and particular account and record of all their proceedings under this chapter and they shall transmit to the Governor an abstract of all such proceedings hereunder, with an annual report, to be by the Governor laid before the Legislature biennially; and all books and papers pertaining to the matter provided for in this chapter shall at all times be open to the inspection of any party interested, or the Governor, or the Attorney General, or a committee of either branch of the Legislature, or a joint committee of both, or any citizen of the state.

#### CHAPTER 10. STATE SCHOOL BUILDING AID BOND LAW OF 1954

16500. This chapter may be cited as the State School Building Aid Bond Law of 1954.

16501. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All reference in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

16502. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

16503. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof and supplementary thereto, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of one hundred million dollars (\$100,000,000) in the manner provided herein, but not otherwise nor in excess thereof.

16504. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. There is hereby appropriated from the General Fund in the State Treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

16505. All money deposited in the fund under Section 16080 of this code and Article 4.5 (commencing with Section 16480) of Chapter 3, Part 2, Division 4, Title 2 of the Government Code shall be available only for transfer to the General Fund, as provided in Section 16504. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

16506. The sum of seventy-five thousand dollars (\$75,000) was appropriated, by Chapter 41 of the Statutes of 1954 (Extraordinary Session), out of the General Fund to be used as a revolving fund to pay the expenses incurred by the State Treasurer in having the bonds

prepared and in advertising their sale or their prior redemption, for expenses incurred by the committee pursuant to Government Code Section 16758, and for legal services, upon approval of the State Board of Control, pursuant to Government Code Section 16760. Whenever bonds are sold, out of the first money realized from their sale, there shall be redeposited in the revolving fund such sums as have been expended for the above purposes, which may be used for the same purpose and repaid in the same manner whenever additional sales are made. Whenever all the bonds authorized by this chapter have been sold, the amount of the appropriation made by this section shall revert to the unappropriated surplus in the General Fund.

16507. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter, and the amount necessary to carry out this chapter is hereby appropriated. The appropriation made by this section is made without regard to fiscal years. Any amounts withdrawn shall be deposited in a revolving fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

16508. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that five million dollars (\$5,000,000) will be available for apportionment on November 5, 1955, or as soon thereafter as such bonds can be issued and sold, and so that five million dollars (\$5,000,000) additional will become available for apportionment on December 5, 1955, and on the fifth day of each month thereafter until a total amount of one hundred million dollars (\$100,000,000) has become available for apportionment. Successive issue of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

16509. In any resolution determining that the sale of all or any part of the bonds herein authorized is necessary or desirable, the committee may in its discretion adopt provisions for the interexchange of bonds of different denominations, the issuance of new bonds of different denominations in lieu of, or in exchange for,

bonds of a like aggregate principal amount but of different denominations, and the authentication of any bonds by the State Controller or by any deputy state controller. If authentication is so required, no bond authorized herein shall be valid unless so authenticated in the manner so required.

16510. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

16511. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer, and no direction of the Governor shall be required. The provisions of Sections 16750 and 16754 of the Government Code respecting the direction of the Governor shall not be applicable to such sale.

16512. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 16504 to pay principal and interest on bonds other than bonds herein authorized.

16513. With respect to the proceeds of bonds authorized by Section 2, Article XVI of the California Constitution, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to "Section 2, Article XVI of the Constitution of this state."

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 16403" shall be deemed a reference to "Section 16504."

#### CHAPTER 11. STATE SCHOOL BUILDING AID BOND LAW OF 1957

16600. This chapter may be cited as the State School Building Aid Bond Law of 1957.

16601. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter

to "herein" shall be deemed to refer both to this chapter and such law.

16602. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

16603. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all act amendatory thereof and supplementary thereto, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of one hundred million dollars (\$100,000,000) in the manner provided herein, but not otherwise nor in excess thereof.

16604. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. There is hereby appropriated from the General Fund in the State Treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

16605. All money deposited in the fund under Section 16080 of this code and Article 4.5 (commencing with Section 16480) of Chapter 3, Part 2, Division 4, Title 2 of the Government Code shall be available only for transfer to the General Fund, as provided in Section 16604. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account

of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

16606. The sum of seventy-five thousand dollars (\$75,000) was appropriated, by Chapter 18 of the Statutes of 1957 out of the General Fund to be used as a revolving fund to pay the expenses incurred by the State Treasurer in having the bonds prepared and in advertising their sale or their prior redemption, for expenses incurred by the committee pursuant to Government Code Section 16758, and for legal services, upon approval of the State Board of Control, pursuant to Government Code Section 16760. Whenever bonds are sold, out of the first money realized from their sale, there shall be redeposited in the revolving fund such sums as have been expended for the above purposes, which may be used for the same purpose and repaid in the same manner whenever additional sales are made. Whenever all the bonds authorized by this chapter have been sold, the amount of the appropriation made by this section shall revert to the unappropriated surplus in the General Fund.

16607. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter, and the amount necessary to carry out this chapter is hereby appropriated. The appropriation made by this section is made without regard to fiscal years. Any amounts withdrawn shall be deposited in a revolving fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

16608. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that fifteen million dollars (\$15,000,000) will be available for apportionment on July 5, 1957, or as soon thereafter as such bonds can be issued and sold, and so that five million dollars (\$5,000,000) additional will become available for apportionment on August 5, 1957, and on the fifth day of each month thereafter until a total amount of one hundred million dollars (\$100,000,000) has become available for apportionment. Successive issue of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all

of the bonds herein authorized to be issued shall be sold at any one time.

16609. In any resolution determining that the sale of all or any part of the bonds herein authorized is necessary or desirable, the committee may in its discretion adopt provisions for the interexchange of bonds of different denominations, the issuance of new bonds of different denominations in lieu of, or in exchange for, bonds of a like aggregate principal amount but of different denominations, and the authentication of any bonds by the State Controller or by any deputy state controller. If authentication is so required, no bond authorized herein shall be valid unless so authenticated in the manner so required.

16610. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

16611. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer, and no direction of the Governor shall be required. The provisions of Sections 16750 and 16754 of the Government Code respecting the direction of the Governor shall not be applicable to such sale.

16612. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 16604 to pay principal and interest on bonds other than bonds herein authorized.

16613. With respect to the proceeds of bonds authorized by Section 2, Article XVI of the California Constitution, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to "Section 2, Article XVI of the Constitution of this state."

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 16403" shall be deemed a reference to "Section 16604."

## CHAPTER 12. STATE SCHOOL BUILDING AID BOND LAW OF 1958

16700. This chapter may be cited as the State School Building Aid Bond Law of 1958.

16701. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

16702. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

16703. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part and of all acts amendatory thereof and supplementary thereto, and to provide funds in the total amount of thirty million dollars (\$30,000,000) for transfer to the Investment Fund pursuant to Chapter 15 of the 1958 First Extraordinary Session, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of two hundred twenty million dollars (\$220,000,000) in the manner provided herein, but not otherwise nor in excess thereof.

16704. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. There is hereby appropriated from the General Fund in the State Treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the

principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

16705. All money deposited in the fund under Section 16080 of this code and pursuant to the provisions of Part 2, commencing with Section 16300, of Division 4, Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 16704. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

16706. The sum of seventy-five thousand dollars (\$75,000) was appropriated, by Chapter 98 of the Statutes of 1958 (First Extraordinary Session) out of the General Fund to be used as a revolving fund to pay the expenses incurred by the State Treasurer in having the bonds prepared and in advertising their sale or their prior redemption, for expenses incurred by the committee pursuant to Government Code Section 16758, and for legal services, upon approval of the State Board of Control, pursuant to Government Code Section 16760. Whenever bonds are sold, out of the first money realized from their sale, there shall be redeposited in the revolving fund such sums as have been expended for the above purposes, which may be used for the same purpose and repaid in the same manner whenever additional sales are made. Whenever all the bonds authorized by this chapter have been sold, the amount of the appropriation made by this section shall revert to the unappropriated surplus in the General Fund.

16707. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter, and the amount necessary to carry out this section is hereby appropriated. The appropriation made by this section is made without regard to fiscal years. Any amounts withdrawn shall be deposited in a revolving fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

16708. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with

Section 16190), inclusive, of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that in addition to the amount to be transferred to the Investment Fund pursuant to Chapter 15 of the 1958 First Extraordinary Session, the sum of eight million dollars (\$8,000,000) will be available for apportionment on January 5, 1959, or as soon thereafter as such bonds can be issued and sold, and so that eight million dollars (\$8,000,000) additional will become available for apportionment on February 5, 1959, and on the fifth day of each month thereafter until a total amount of one hundred ninety million dollars (\$190,000,000) has become available for apportionment. Successive issue of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

16709. In any resolution determining that the sale of all or any part of the bonds herein authorized is necessary or desirable, the committee may in its discretion adopt provisions for the interexchange of bonds of different denominations, the issuance of new bonds of different denominations in lieu of, or in exchange for, bonds of a like aggregate principal amount but of different denominations, and the authentication of any bonds by the State Controller or by any deputy state controller. If authentication is so required, no bond authorized herein shall be valid unless so authenticated in the manner so required.

16710. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

16711. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer, and no direction of the Governor shall be required. The provisions of Sections 16750 and 16754 of the Government Code respecting the direction of the Governor shall not be applicable to such sale.

16712. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 16704 to pay principal and interest on bonds.

16713. With respect to the proceeds of bonds authorized by Section 2, Article XVI of the California Constitution, all the provisions of Article 1 (commencing with Section 16000) to Article

3 (commencing with Section 16190), inclusive, of Chapter 8 of this part shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part to "Section 16.5, Article XVI of the Constitution of this state" shall be deemed a reference to "Section 2, Article XVI of the Constitution of this state."

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part to "Section 16403" shall be deemed a reference to "Section 16704."

### CHAPTER 13. STATE SCHOOL BUILDING AID BOND LAW OF 1960

16800. This chapter may be cited as the State School Building Aid Bond Law of 1960.

16801. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

16802. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

16803. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof and supplementary thereto, and to provide funds in the total amount of twenty million dollars (\$20,000,000) to repay any money appropriated and transferred from the General Fund for state school building aid pursuant to any law enacted for such purposes at the 1960 First Extraordinary Session, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of three hundred million dollars (\$300,000,000) in the manner provided herein, but not otherwise nor in excess thereof.

16804. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. There is hereby appropriated from the General Fund in the State Treasury such sum annually as will be necessary to pay the principal of and the

interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

16805. All money deposited in the fund under Section 16080 of this code and pursuant to the provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 16804. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

16806. The sum of seventy-five thousand dollars (\$75,000) is hereby appropriated out of the General Fund to be used as a revolving fund to pay the expenses incurred by the State Treasurer in having the bonds prepared and in advertising their sale or their prior redemption, for expenses incurred by the committee pursuant to Government Code Section 16758, and for legal services, upon approval of the State Board of Control, pursuant to Government Code Section 16760. Whenever bonds are sold, out of the first money realized from their sale, there shall be redeposited in the revolving fund such sums as have been expended for the above purposes, which may be used for the same purpose and repaid in the same manner whenever additional sales are made. Whenever all the bonds authorized by this chapter have been sold, the amount of the appropriation made by this section shall revert to the unappropriated surplus in the General Fund.

16807. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue

any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that there shall be immediately available for apportionment the sum of: twenty million dollars (\$20,000,000) less any amount transferred from the General Fund pursuant to any law providing for the appropriation and transfer of moneys from the General Fund for state school building aid enacted at the 1960 First Extraordinary Session; on November 5, 1960, or as soon thereafter as such bonds can be issued and sold, the sum of two million dollars (\$2,000,000); on December 5, 1960, the sum of two million dollars (\$2,000,000); on January 5, 1961, the sum of nine million dollars (\$9,000,000); on February 3, 1961, thirty million dollars (\$30,000,000); on the fifth day of February, 1961, and on the fifth day of each month thereafter the sum of ten million dollars (\$10,000,000) or, if the Legislature so provides by concurrent resolution adopted after January 1, 1961, the sum of twelve million dollars (\$12,000,000) for each month after the adoption of such resolution, except that on the fifth day of any month after October 1, 1961, should the board have determined that an additional three million dollars (\$3,000,000) is necessary, the sum of fifteen million dollars (\$15,000,000), until a total of three hundred million dollars (\$300,000,000) has become available for apportionment. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

16808. In any resolution determining that the sale of all or any part of the bonds herein authorized is necessary or desirable, the committee may in its discretion adopt provisions for the interexchange of bonds of different denominations, the issuance of new bonds of different denominations in lieu of, or in exchange for, bonds of a like aggregate principal amount but of different denominations, and the authentication of any bonds by the State Controller or by any deputy state controller. If authentication is so required, no bond authorized herein shall be valid unless so authenticated in the manner so required.

16809. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

16810. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer, and no direction of the Governor shall be required. The provisions of Sections 16750 and 16754 of the Government Code respecting the direction of the Governor shall not be applicable to such sale.

16811. All proceeds from the sale of the bonds herein authorized

deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 16804 to pay principal and interest on bonds.

16812. With respect to the proceeds of bonds authorized by Section 2, Article XVI of the California Constitution, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 16.5, Article XVI of the Constitution of this state" shall be deemed a reference to "Section 2, Article XVI of the Constitution of this state."

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 16403" shall be deemed a reference to "Section 16804."

#### CHAPTER 14. CALL AND REDEMPTION OF STATE SCHOOL CONSTRUCTION BONDS

16900. The State School Building Finance Committee or other governmental body empowered to make a determination of whether any or all of the bonds authorized to be issued by the state, under legislation enacted following the effective date of this section, for the purpose of assisting local school districts in the acquisition of sites, the construction of school buildings and related facilities, and the purchase of furniture and equipment, may instruct the State Treasurer to include in the bonds, or any of them, provisions permitting their call and redemption at the option of the state prior to their maturity and indicating the price at which such bonds shall be subject to redemption; and it shall be the duty of the State Treasurer to comply therewith. No bonds shall be subject to call or redemption prior to maturity unless they contain a recital to that effect.

#### CHAPTER 15. STATE SCHOOL BUILDING AID BOND LAW OF 1962

17000. This chapter may be cited as the State School Building Aid Bond Law of 1962.

17001. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17002. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

17003. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof and supplementary thereto, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of two hundred million dollars (\$200,000,000) in the manner provided herein, but not in excess thereof.

17004. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17005. All money deposited in the fund under Section 16080 of this code and pursuant to the provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17004. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17006. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount

as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17007, which sum is appropriated without regard to fiscal years.

17007. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in a revolving fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17008. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that seven million dollars (\$7,000,000) will be available for apportionment on September 5, 1962, or as soon thereafter as such bonds can be issued and sold, and so that twelve million dollars (\$12,000,000) will become available for apportionment on October 5, 1962 and a like amount on the fifth day of each month thereafter until a total of two hundred million dollars (\$200,000,000) has become available for apportionment. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17009. In any resolution determining that the sale of all or any part of the bonds herein authorized is necessary or desirable, the committee may in its discretion adopt provisions for the interexchange of bonds of different denominations, the issuance of new bonds of different denominations in lieu of, or in exchange for, bonds of a like aggregate principal amount but of different denominations, and the authentication of any bonds by the State Controller or by any deputy state controller. If authentication is so required, no bond authorized herein shall be valid unless so authenticated in the manner so required.

17010. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of

the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

17011. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17012. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17004 to pay principal and interest on bonds.

17013. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to this chapter.

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 16403" shall be deemed a reference to "Section 17004."

#### CHAPTER 16. STATE SCHOOL BUILDING AID BOND LAW OF 1964

17100. This chapter may be cited as the State School Building Aid Bond Law of 1964.

17101. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17102. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

17103. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any

money advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of two hundred sixty million dollars (\$260,000,000) in the manner provided herein, but not in excess thereof.

17104. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17105. All money deposited in the fund under Section 16080 of this code and pursuant to the provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17104. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17106. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17107, which sum is appropriated without regard to fiscal years.

17107. For the purposes of carrying out the provisions of this

chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17108. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that seventy million dollars (\$70,000,000) will be available for apportionment on December 5, 1964, or as soon thereafter as such bonds can be issued and sold, and so that twelve million dollars (\$12,000,000) will become available for apportionment on January 5, 1965 and a like amount on the fifth day of each month thereafter until a total of two hundred sixty million dollars (\$260,000,000) has become available for apportionment. However, if the board determines that an additional three million dollars (\$3,000,000) is necessary, a sufficient number of bonds authorized under this chapter shall be issued and sold so that fifteen million dollars (\$15,000,000), rather than twelve million dollars (\$12,000,000), will become available for apportionment on the fifth day of any month after January, 1965. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17109. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

17110. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17111. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17104 to pay principal and interest on bonds.

17112. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to this chapter.

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 16403" shall be deemed a reference to "Section 17104."

17113. Out of the first money realized from the sale of bonds under this chapter, there shall be repaid any moneys advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act.

#### CHAPTER 17. STATE SCHOOL BUILDING AID BOND LAW OF 1966

17200. This chapter may be cited as the State School Building Aid Bond Law of 1966.

17201. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17202. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means State School Building Finance Committee, created by Section 15909.

(b) "Board" means State Allocation Board.

(c) "Fund" means State School Building Aid Fund.

17203. The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of two hundred seventy-five million dollars (\$275,000,000), in the manner provided in this chapter, but not in excess thereof. Such debt or debts, liability or liabilities, shall be created for the purpose of providing a fund to be used, pursuant to statutes enacted or to be enacted by the Legislature, to aid school districts and county superintendents of schools in acquiring land, and in acquiring, by lease, purchase, or by any other appropriate means authorized by law, and in constructing buildings, equipment, and facilities, to be used for public school purposes. Such aid may be provided, pursuant to such statutes, in the form of grants or loans of money to school districts and county superintendents of schools, or

by the acquisition of buildings, facilities, and equipment by the state with subsequent sale, lease, grant, or other conveyance to school districts and county superintendents of schools, or by any combination thereof.

17204. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17205. All money deposited in the fund under Section 16080, pursuant to any other provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this chapter, and pursuant to the provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17204. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17206. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17207, which sum is appropriated without regard to fiscal years.

17207. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize

the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17208. Upon request of the board, supported by a statement of the apportionments made and to be made under Chapter 8 (commencing with Section 16000) of this part, or under any other provisions of law authorizing assistance to be provided for public school purposes from the proceeds of bonds authorized by this chapter, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that twelve million dollars (\$12,000,000) will become available for apportionment on July 5, 1966, and a like amount on the fifth day of each month thereafter until a total of two hundred seventy-five million dollars (\$275,000,000) has become available for apportionment. However, if the board determines that an additional three million dollars (\$3,000,000) is necessary, a sufficient number of bonds authorized under this chapter shall be issued and sold so that fifteen million dollars (\$15,000,000), rather than twelve million dollars (\$12,000,000), will become available for apportionment on the fifth day of any month after July, 1966. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17209. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

17210. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17211. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17204 to pay principal and interest on bonds.

17212. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Chapter 8 (commencing with Section

16000) of this part shall apply except:

(a) Any reference in Chapter 8 (commencing with Section 16000) of this part to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to this chapter.

(b) Any reference in Chapter 8 (commencing with Section 16000) of this part to "Section 16403" shall be deemed a reference to "Section 17204."

17213. Out of the first money realized from the sale of bonds under this chapter, there shall be repaid any moneys advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act.

17214. Notwithstanding any provisions in this chapter to the contrary, of the moneys made available by this chapter the sum of thirty-five million dollars (\$35,000,000) shall be available, upon application of school districts, for any of the purposes following, or any combination thereof:

(a) Acquisition and installation of portable classrooms.

(b) Acquisition of land for school sites.

(c) Construction of permanent school buildings and facilities.

(d) Reconstruction, renovation and remodeling of existing school buildings and facilities.

The funds set aside pursuant to this section may be expended only for the improvement of the education of minors, and only when legislation is enacted to authorize the expenditure of these funds for the improvement of the education of minors. These funds shall be made available to eligible school districts when the fiscal and other requirements prescribed by statutes enacted or to be enacted for this purpose are complied with.

## CHAPTER 18. URBAN SCHOOL CONSTRUCTION AID LAW OF 1968

### Article 1. General Provisions

17300. This chapter may be cited as the "Urban School Construction Aid Law of 1968."

17301. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid urban school districts of the state in reconstructing, modernizing, or replacing school sites and buildings for pupils of the public school system who are now housed in substandard schools constructed prior to 1943.

17302. As used in this chapter:

(a) "Board" means the State Allocation Board, created by Section 7 of the Construction and Employment Act as amended.

(b) "Director" means the Director of Education or board of governors as appropriate to their jurisdiction.

(c) "Project" means the purpose or purposes for which a school district has applied for an apportionment or apportionments.

(d) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

(e) "Urban district" means any school district, the boundaries of which are substantially identical to or which encompass the boundaries of a city having a population in 1960 of not less than 50,000 persons.

17303. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

17304. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the Urban School Construction Aid Fund.

17305. The board by the adoption of rules shall give priority in allocating funds to urban districts to such districts where the children will benefit most from schoolhouse facilities. This priority shall be based upon the age of existing buildings and the acuteness of overcrowding at the school or schools where the construction or reconstruction will occur, the density of population in the attendance areas affected, or such other factors which will insure that the greatest need will be served.

17306. In addition to such other powers and duties as are granted the board by this chapter, the board shall:

(a) Establish such qualifications not in conflict with other provisions of this chapter as it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish such procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter as it deems necessary.

(c) Adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

17307. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from such a disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to any such property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement such disposition.

17308. Apportionments from the Urban School Construction Aid

Fund created by Section 17328 shall be limited to urban districts and shall be made for the sole purpose of reconstructing or replacing existing substandard buildings constructed prior to 1943. Such apportionments shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board for the following purposes.

(1) The acquisition, by purchase or lease, and the installation and equipping portable classrooms for instructional purposes.

(2) The acquisition and development of school sites.

(3) The construction and equipping of permanent school buildings and facilities.

(4) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(5) Any combination of the above.

As a part of such purposes, where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to said district out of said apportionment, or out of any apportionment made specifically covering such insurance, provided that in other respects said apportionments are eligible for payment under provisions of this chapter.

A leasehold or use permit interest held by a school district in land owned in fee simple by the government of the United States may, for all purposes of this chapter, be deemed a purchase of land by the district and to vest title and ownership in the district.

17309. The board shall not make any apportionment with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate said facilities.

17310. In addition to the purposes for which apportionments may be made to school districts under Section 17308, apportionments may also be made to school districts for the construction, repair, attachment or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

17311. In making applications for, and in expending apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds apportioned under this chapter is

located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing such real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. Such certificate shall as to any party thereafter acquiring real property or any interest therein in the county from said school district have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. Such effect shall commence upon recordation and continue until the certificate is discharged or released as provided herein.

Upon request the Director of General Services shall (1) issue a release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under this chapter, provided that delivery of such release may be subject to such conditions as may be prescribed by the board to protect the state's interest; (2) issue a disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under this chapter, provided that the delivery of such disclaimer may be subject to such conditions as the board deems appropriate to protect the interests of the state, including conditions relating to the amount of consideration to be received from such disposition where the board asserts an interest in the proceeds of such disposition under other provisions of this chapter. Such release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter (1) the Director of General Services shall file with the recorder a release of any such certificate which release shall be recorded and indexed in the same index as said certificate; and (2) the title to personal property purchased by such school district with funds apportioned under this chapter shall revert thereto without further action by the state.

17312. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

17313. Each school district which desires an apportionment shall submit through its governing board to the board an application therefor in such form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment.

Estimates of costs for new construction or equipment appearing in

an application shall not exceed typical current costs of comparable new construction or equipment by school districts in the same area not receiving an apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by school districts in the area, the estimates of costs shall not exceed the reasonable current cost of similar construction or equipment in the area as determined by the Director of General Services.

A school district may at any time file an application or amend or supplement an application. Upon receipt of any application, the Director of General Services shall as promptly as possible prepare a report and recommendation with respect to the application after having received recommendations from the director in respect to any matter which is subject to the jurisdiction or approval of the director or Department of Education, or the board of governors, as appropriate to their jurisdiction. The board shall, subject to the provisions of this chapter, approve, in whole or in part, or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Urban School Construction Aid Fund the amount applied for, or such portion thereof as the board may determine appropriate; provided, that it may order that the apportionment or any part thereof shall be paid in progressive installments at such times and under such conditions as it may then prescribe.

17314. The board may approve, in whole or in part, an application submitted by a school district under Section 19263 and in such amount, not exceeding the amount applied for, as the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount approved in the application of the district by the board to the applicant school district from the Urban School Construction Aid Fund for such portion or portions of the project as the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments as it deems appropriate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to such district in an amount equal to such excess even though such additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

17315. No apportionment shall be made for new construction, the area of which exceeds the area of the unsafe buildings being replaced under Section 17308. The area of school buildings shall be computed in a uniform manner as prescribed by the board.

17316. Payment shall be made in accordance with the terms of an apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of this chapter for any items approved by the board in such apportionment; provided, however, that where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for such item, either with state funds or with district funds which the district is required to contribute by said apportionment, shall be made only upon authorization of the board by special resolution citing this section.

17317. Notwithstanding any provision to the contrary, the board, with the approval of the Director of General Services, shall, pursuant to this section, fix the rate of interest to be paid by the districts on the sums apportioned during that fiscal year. Beginning each fiscal year the board shall compute the average of the rates of interest which the state pays upon the state school reconstruction and replacement bonds, sold at the three sales of state school reconstruction and replacement bonds occurring immediately prior to that fiscal year, or, if the board so determines, at all of the sales of such bonds occurring in the two years immediately prior thereto, giving effect to the price at which the state school reconstruction and replacement bonds sold at such sales, and the premium, if any paid, thereon. If an apportionment is made prior to the sale of state school reconstruction and replacement bonds, the board shall use the computed average rate of interest which the state paid on the last sale of state school building bonds. Such average rate shall be adjusted to the next highest one-tenth of 1 percent to cover the cost of sale and issuance of the bonds and costs of administration. Such adjusted average rate shall be the rate paid by districts on apportionments received during that fiscal year, and shall be compounded annually through the 30th day of June of each year.

17318. Apportionments may be made irrespective of whether there is on deposit at the time thereof a sufficient amount in the Urban School Construction Aid Fund to permit the payment of such apportionments. Disbursements may be made under any apportionment from any funds in the Urban School Construction Aid Fund irrespective of whether there exists at the time of such disbursement a sufficient amount in such fund to permit the

payment in full of all apportionments previously made; provided, that no disbursements shall be made from any funds in the Urban School Construction Aid Fund required by law to be transferred to the General Fund, or from any moneys therein which the Controller deems necessary to satisfy appropriations from such fund for purposes other than apportionments.

17319. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment.

17320. Each district to which an apportionment or apportionments has been made under this chapter shall repay a portion or all of the principal amount of such apportionment or apportionments and the accrued interest thereon in 30 equal annual payments, as shall be determined by the State Controller pursuant to this section. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each apportionment if computed separately.

The State Controller shall determine the portion of the principal amount of the apportionment or apportionments made to each district to be repaid by the district by diminishing such principal amount by the product of the ratio which the assessed valuation of the district per unit of average daily attendance of pupils in the grades maintained by the district during the preceding fiscal year bears to the assessed valuation per unit of such average daily attendance in the same type of districts in the state and one-half of the principal amount of the apportionment or apportionments, except that the amount to be repaid shall not exceed the amount of the principal apportionment or apportionments.

The State Controller shall make the computation to determine the annual repayment due in the next fiscal year following the fiscal year in which the apportionment is made. In any year in which the annual repayment exceeds the amount which may be raised by a three-cent (\$.03) tax rate per one hundred dollars (\$100) of assessed valuation in the district, the governing board of the school district shall so certify to the State Controller whereupon the State Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax rate of three cents (\$.03) per one hundred dollars (\$100) of assessed valuation of the district. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

17321. The State Controller shall, during the next fiscal year following that in which he determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund and, on order of the State

Controller, the amount so deducted shall be transferred to the Urban School Construction Aid Fund. All money transferred to the Urban School Construction Aid Fund under the provisions of this section shall be available only for transfer to the General Fund.

17322. The State Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to a district under the provisions of this chapter. He shall compute interest, at the rate fixed by the board, on each amount disbursed by the state pursuant to any such apportionment, from the date of issuance of the State Controller's warrant covering the payment to the county treasurer of such amount until the first day of July of the fiscal year next succeeding that in which such warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to such apportionment, through the 30th day of the following June of each year, until the principal and interest have been paid.

17323. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the State Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

17324. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the State Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the State Controller during the fiscal year in which the tax is levied. Such tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

17325. The board shall prescribe in such detail as it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and such prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for such cause as it sees fit.

17326. An urban school construction fund is hereby created in the county treasury in each county for each school district in such county. The county treasurer of each county shall pay into the urban school construction fund of each school district, exactly as apportioned by the board, all moneys received by him under this chapter with respect to each such school district.

17327. Interest earned on those portions of deposits in an urban

school construction fund representing allocations from the proceeds of state school reconstruction and replacement bonds received by the county treasurer for the benefit of a school district under this chapter shall be paid into the urban school construction fund created by Section 17328.

17328. A fund in the State Treasury is hereby created, to be known as the Urban School Construction Aid Fund. All money in the Urban School Construction Aid Fund, including any money deposited in said fund from any source whatsoever is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

17329. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the urban school construction fund of the school district exactly as apportioned by the board and only for the purposes for which said moneys were apportioned to the district, and for no other purpose, and shall make such reports relating to the expenditure of such moneys as the board and the State Controller shall require.

17330. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

17331. It shall be the duty of the State Controller to make such audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

17332. Whenever the State Controller determines that any money apportioned to a school district has been expended by such school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the State Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of such unauthorized expenditures, or the amount of such excess apportionment, as the case may be. Upon receipt of such notice, such governing board shall order the county treasurer to pay to the State Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in such notice. Such amount shall, upon order of the State Controller, be deposited

in the State Treasury to the credit of the Urban School Construction Aid Fund, to be reapportioned by the board.

It shall be the duty of such governing body and the county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

If the district fails to make the payment specified within one year after written notice of the amount due, the State Controller shall deduct the amount thereof with interest from date of the notice from the February payment made to the district under the provisions of Section 14041 in the next succeeding fiscal year.

17333. (a) As used in this chapter:

(1) "State-aided district" means a district to which an apportionment has been made under this chapter.

(2) "Acquiring district" means a district in which all or a part of, a state-aided district or an applicant district has been included.

(3) "Original district" means a state-aided or applicant district included in whole or in part in an acquiring district.

(b) For the purposes of this article as it applies to an original district or to an acquiring district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization shall be the date such action became effective for the purposes of Section 4060.

17334. Whenever, subsequent to the date of an apportionment to a district, the state-aided district is included in whole or in part in another district, the acquiring district in which a state-aid project is located shall, on the effective date of such inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to any apportionment or apportionments for such project and the property acquired or to be acquired from funds provided thereby, and all funds in the urban school construction fund of the state-aided district shall be transferred to the urban school construction fund of the acquiring district. All amounts which would, after the effective date of such inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to said apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district become liable for the annual repayments and other payments due the state under this chapter.

#### CHAPTER 19. STATE SCHOOL BUILDING AID AND EARTHQUAKE RECONSTRUCTION AND REPLACEMENT BOND LAW OF 1972

17400. This chapter may be cited as the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972.

17401. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is adopted for the purpose of the issuance,

sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17402. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means the State School Building Finance Committee created by Section 15909.

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

(c) "Fund" means the State School Building Aid Fund.

17403. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any money advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of three hundred fifty million dollars (\$350,000,000) in the manner provided herein, but not in excess thereof.

17404. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17405. All money deposited in the fund under Section 16080 of this code and pursuant to the provisions of Part 2 (commencing with

Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17404. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17406. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17407, which sum is appropriated without regard to fiscal years.

17407. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17408. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. Seventy-five million dollars (\$75,000,000) shall be available for apportionment on July 5, 1972, and fifteen million dollars (\$15,000,000) shall become available for apportionment on the fifth day of each month thereafter until a total of three hundred fifty million dollars (\$350,000,000) has become available for apportionment. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17409. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation

to be made on a 360-day year basis.

17410. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17411. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17404 to pay principal and interest on bonds.

17412. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to this chapter.

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part to "Section 16403" shall be deemed a reference to "Section 17404."

17413. Out of the first money realized from the sale of bonds under this act, there shall be repaid any moneys advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act.

17414. Notwithstanding any provisions in this chapter to the contrary, of the moneys made available by this chapter not to exceed the sum of two hundred fifty million dollars (\$250,000,000) or such amount thereof that the board may determine necessary therefor, shall be available under the provisions of Article 9 (commencing with Section 16310) of Chapter 8 of this part for the purpose of rehabilitating, reconstructing, or replacing school facilities which are unsafe by virtue of not being in compliance with Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of Title 2 or for the purpose of repairing actual damage to school facilities caused by an earthquake after February 1, 1971, and for which there are no other state or federal funds available for such restoration. These funds shall be made available to eligible school districts when the fiscal and other requirements prescribed by Article 9 (commencing with Section 16310) of Chapter 8 of this part are complied with.

## CHAPTER 20. STATE SCHOOL BUILDING AID AND EARTHQUAKE RECONSTRUCTION AND REPLACEMENT BOND LAW OF 1974

17500. This chapter may be cited as the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1974.

17501. The State General Obligation Bond Law (Chapter 4

(commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17502. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means the State School Building Finance Committee created by Section 15909.

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

(c) "Fund" means the State School Building Aid Fund.

17503. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any money advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of one hundred fifty million dollars (\$150,000,000) in the manner provided herein, but not in excess thereof.

17504. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17505. All money deposited in the fund under Section 16080 of this code and pursuant to the provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17504. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17506. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17507, which sum is appropriated without regard to fiscal years.

17507. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17508. Upon request of the board, supported by a statement of the apportionments made and to be made under Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, and Article 9 (commencing with Section 16310) of Chapter 8 of this part, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. Fifty million dollars (\$50,000,000) shall be available for apportionment on December 5, 1974, and five million dollars (\$5,000,000) shall become available for apportionment on the fifth day of each month thereafter until a total of one hundred fifty million dollars (\$150,000,000) has become available for apportionment. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17509. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of

the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

17510. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17511. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17504 to pay principal and interest on bonds.

17512. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part shall apply except:

(a) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part, to "Section 2, Article XVI of the Constitution of this state" shall be deemed a reference to this chapter.

(b) Any reference in Article 1 (commencing with Section 16000) to Article 3 (commencing with Section 16190), inclusive, of Chapter 8 of this part to "Section 16403" shall be deemed a reference to Section 17504.

17513. Out of the first money realized from the sale of bonds under this act, there shall be repaid any moneys advanced or loaned to the State School Building Aid Fund under any act of the Legislature, together with interest provided for in that act.

17514. Notwithstanding any provisions in this chapter to the contrary, of the moneys made available by this chapter, not to exceed the sum of fifty million dollars (\$50,000,000) or such amount thereof that the board may determine necessary therefor, shall be available under the provisions of Article 9 (commencing with Section 16310) of Chapter 8 of this part for the purpose of rehabilitating, reconstructing, or replacing school facilities which are unsafe by virtue of not being in compliance with Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of Title 2 or for the purpose of repairing actual damage to school facilities caused by an earthquake after March 1, 1974, and for which there are no other state or federal funds available for such restoration. These funds shall be made available to eligible school districts when the fiscal and other requirements prescribed by Article 9 (commencing with Section 16310) of Chapter 8 of this part are complied with.

#### CHAPTER 21. STATE SCHOOL BUILDING LEASE-PURCHASE BOND LAW OF 1976

17600. This act may be cited as the State School Building

Lease-Purchase Bond Law of 1976.

17601. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17602. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means the State School Building Finance Committee created by Section 15901.

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

(c) "Fund" means the State School Building Lease-Purchase Fund.

17603. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Lease-Purchase Law of 1976, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of two hundred million dollars (\$200,000,000) in the manner provided herein, but not in excess thereof.

17604. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then

the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17605. All money deposited in the fund under Section 17736 of this code and pursuant to the provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17604. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17606. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17607, which sum is appropriated without regard to fiscal years.

17607. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17608. Upon request of the board, supported by a statement of the apportionments made and to be made under Sections 17700 to 17766, inclusive, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. Fifty million dollars (\$50,000,000) shall be available for apportionment on July 1, 1976, and seven million dollars (\$7,000,000) shall become available for apportionment on the fifth day of each month thereafter until a total of two hundred million dollars (\$200,000,000) has become available for apportionment. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17609. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of

the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day year basis.

17610. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17611. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 19305 to pay principal and interest on bonds.

17612. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Sections 17700 to 17766, inclusive, shall apply.

17613. Out of the first money realized from the sale of bonds under this act, there shall be repaid any moneys advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act.

#### CHAPTER 22. STATE SCHOOL BUILDING LEASE-PURCHASE LAW OF 1976

17700. This chapter may be cited as the "Leroy F. Greene State School Building Lease-Purchase Law of 1976".

17701. The Legislature hereby declares that it is in the interest of the state and the people thereof for the state to issue general obligation bonds and use the proceeds thereof to reconstruct, remodel or replace existing school buildings which are educationally inadequate or which do not meet present-day structural safety requirements, and to acquire new school sites and buildings for the purpose of making them available to local school districts for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

17702. The following terms wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

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

(b) "Cost of project" includes, but is not limited to, the cost of all real estate property rights, and easements acquired, and the cost of developing the site and streets and utilities immediately adjacent thereto, the cost of construction of buildings and the furnishing and equipping of them, all financing charges, interest prior to, during, and for a period of six months prior to construction, engineering, architectural and legal expenses, the cost of plans, specifications, surveys, estimate of costs and revenues, administrative expenses or such other expenses that are necessary or incident to the financing

of the project.

(c) The term "lease" includes a lease with an option to purchase.

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

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

17703. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

17704. The State Allocation Board is continued in existence for the purpose of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid as an administrative expense referred to herein.

17705. In addition to such other powers and duties as are granted the board by this chapter, other statute, or the Constitution, the board shall have power to:

(a) Establish such qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts to lease projects under this chapter.

(b) Establish such procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

(d) Construct and control any project.

(e) Fix rates, rents or other charges for the use of any project acquired, constructed, equipped, furnished, or for services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the board with respect to the fixing of such rates, rents or charges.

17706. The board shall not enter into any leases with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate said facilities.

17707. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, State Controller, State Treasurer, Director of Finance, and Director of Education, all of whom shall serve thereon without compensation and a majority of

whom shall constitute a quorum, is continued in existence for the purpose of this chapter. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker, shall meet with and advise the committee to the extent that such advisory participation is not incompatible with their respective positions as Members of the Legislature.

For purposes of this chapter said Members of the Legislature shall constitute an interim investigation committee on the subject of this chapter and as such shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and the Assembly. The Director of General Services shall provide such assistance to the committee as it may require. The Attorney General shall be the legal adviser of the committee.

17708. A fund is hereby created in the State Treasury to be known as the State School Building Lease-Purchase Fund. All money in the State School Building Lease-Purchase Fund including any money deposited in said fund from any source whatsoever is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to the provisions of this chapter.

## Article 2. Projects

17710. The board may construct any project, and may acquire all property necessary therefor, on such terms and conditions as it may deem advisable. When any part of the work is to be done or performed by any public body or the United States jointly or in conjunction with the board, the portion of the cost thereof to be borne by the board may be turned over to the government of the United States or to any other public body, to be expended by it in the acquisition, construction or completion of the project.

17711. The board may use for the payment of the costs of acquisition, construction or completion of any project any funds made available to the board by the State of California or any other funds provided by the board from any source, to be expended for accomplishing the purposes set forth in this chapter, together with the proceeds of bonds issued and sold pursuant to Chapter 21 (commencing with Section 17600).

17712. The board has full charge of the acquisition, construction, completion, and control of all projects authorized by them and may proceed with such work forthwith.

17713. Title to all property acquired, constructed, or improved by the board and the revenues and income therefrom, is in the State of California. All such property, and the income therefrom are exempt from all taxation by the State of California or by any county, city and county, city, district, political subdivision or public corporation thereof.

17714. The board shall require the school district to make all necessary repairs, renewals and replacements to insure that a project is at all times kept in good repair, working order and condition. All

costs incurred for this purpose will be borne by the school district.

17715. The board shall require the school district to insure against public liability or property damage in connection with any project.

17716. The board, by the adoption of rules, may establish priorities for the construction and leasing of projects to those school districts the pupils of which will benefit most. The board may make exceptions from established priorities when it determines that to do so will benefit the pupils affected.

17717. Each school district which desires to lease a project for a grade level maintained by it, shall submit through its governing board an application therefor to the board in such form and number of copies as the board may prescribe. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the Director of General Services.

Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project.

Before the board approves an application for a construction project, it shall establish cost standards for all new construction included therein. Such cost standards shall not exceed typical comparable new construction by school districts in the same area, or if there has been no new construction by school districts in the area, the cost standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine such typical current costs or such reasonable current costs. In applying cost standards the board shall take into account the size and type of the construction proposed and may make such deviations as in its judgment are justified. When a standard has been set by the board to cover any individual apportionment, no project shall be approved by the board in excess of such standard, unless the board shall find that in view of a subsequent increase in building costs an adjustment is warranted. No contract shall be let for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for such new construction.

17718. In approving applications pursuant to this chapter, the board shall encourage the design and construction of facilities which will conserve unreplenishable energy resources by consideration of alternate design and insulation concepts as well as unconventional energy sources. In so doing, the board may increase cost allowances to reflect the difference between conventional and unconventional concepts when the board is satisfied that the life cycle cost of the project is not expected to exceed the life cycle cost of a conventionally designed project.

17719. Before the board approves any project which includes the acquisition of furniture or equipment, it shall establish current cost and quality standards for furniture and equipment. Such standards

shall not exceed the cost and quality of furniture and equipment for comparable facilities purchased by school districts in the same area. Such standards shall consist of furniture and equipment costs for each type of classroom or pupil station having different cost criteria. Such standards shall be reviewed quarterly by the board and adjustments made in accordance with actual current costs. When cost and quality standards have been adopted by the board, such standards shall not be exceeded unless a subsequent increase in actual current costs warrants an adjustment.

Before the board approves a project for the replacement, reconstruction, or alteration of, or addition to, a school building, full consideration shall be given to all usable furniture and equipment existing in the applicant district. The board may approve all or a portion of the amount applied for.

17720. Notwithstanding other provisions of this chapter, in order to expedite a total school facility a school district may first apply for a project which includes only the advance purchase of the land and preparation of plans and specifications. The acquisition of the site and the plans preparation shall be based on the justification documents for the total school facility. The school district may apply for a subsequent project or projects to complete the total school facility.

17721. No project shall be approved for the reconstruction, modernization or replacement of any school building which was constructed or reconstructed less than 30 years prior to the date of approval of the project applied for under this chapter.

17722. No project shall be acquired or constructed unless the applicant district has first held an election at which more than 50 percent of the qualified electors of the district voting thereat have approved the ballot proposition hereinafter referred to in this section. At such election, the electors may authorize an increase in the maximum tax rate by an amount which will produce revenues equal to the annual lease payments.

Before entering into a lease or agreement pursuant to this article, the governing board of the school district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words:

“Shall the governing board of the district be authorized to enter into lease-purchase agreements with the State of California under and subject to the provisions of Chapter 22 (commencing with Section 17700) of Part 10 of Division 1 of Title 1 of the Education Code for the construction, reconstruction, alteration, or replacement of school facilities, which amount is subject to lease payments as provided in said chapter, the project costs of which shall not exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_) Yes \_\_\_\_\_ No \_\_\_\_\_.”

17723. Nothing contained in this chapter shall be construed as changing the powers and duties of the Department of Education or the Department of General Services in respect to school sites and the construction of school buildings as contained in Chapter 1

(commencing with Section 39000) and Chapter 2 (commencing with Section 39100) of Part 23 of Division 2 of Title 2.

17724. The board shall not authorize a contract for the erection of any new school building, or for any addition to, or alteration of, any existing building, for lease-purchase to any school district subject to the provisions of Section 39118, unless the applicant district has submitted plans therefor to the Department of Education, and obtained the written approval of the plans by that department.

17725. The board shall not authorize a contract for the erection of any new school, or for the addition to, or alteration of, any existing building, for lease-purchase to any school district unless the applicant district has submitted plans therefor to the Department of General Services and obtained the written approval of such department pursuant to the provisions of Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2.

17726. Annual lease payments shall be established by the board in such amount as necessary to amortize the cost of the project over a period of not more than 30 years, including interest. The Director of General Services shall notify the State Controller, the governing board of the district, and the county auditor and county superintendent of schools of the county affected of the amounts due annually from each district under a lease entered into pursuant to this chapter. The State Controller shall, during the next fiscal year following notification by the Director of General Services, deduct the total amount of the annual payment due from each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to such district from the State School Fund under Sections 92, 46304, and 46305, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, whichever are in effect; and, on order of the State Controller, the amount so deducted shall be transferred to the State School Building Lease-Purchase Fund. All money so transferred under the provisions of this section shall be available only for purposes of making annual payments of interest and principal on the bonds issued by the state for the purpose of constructing facilities under this chapter.

The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this section will have moneys withheld by the State Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district at a rate sufficient to raise for the district the amount of money to be withheld by the State Controller during the fiscal year in which the tax is levied. Such tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

17727. Whenever, subsequent to the date on which a project has

been approved under the provisions of this chapter, the boundaries of the applicant district are changed by any action, the territory comprising the boundaries of the applicant district at the time the project was approved shall remain obligated for payments required under a lease entered into in connection with the approved project.

17728. For the purposes of Sections 15102 and 15106, 50 percent of any remaining payments which would become due from a school district under any lease entered into by the district pursuant to this chapter, if such lease was to run its full term, shall be considered outstanding bonded indebtedness.

No district shall enter into any lease pursuant to this chapter if at the time 50 percent of any remaining rental payments thereunder, which would become due from the district pursuant to this chapter, or pursuant to Article 7 (commencing with Section 39240) of Chapter 1 of Part 23 Division 3 of Title 2, including the lease to be entered into, if such leases were to run their full term, plus the total amount of district bonded indebtedness outstanding at the time, shall exceed 7.5 percent in the case of an elementary school district or high school district, or 12.5 percent in the case of a unified school district, of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For the purpose of this section, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowners' property tax exemption.

17729. The board shall authorize the applicant school district to act as its agent in the performance of acts specifically approved by the board and all acts required pursuant to Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3. Such authorizations shall include, but are not limited to, the selection of school sites, the securing of appraisals, the contracting for architectural services, the advertisement for construction bids and the entering into of contracts therefor and the purchase of furniture and equipment.

17730. In expending funds for any project under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, altered or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing such real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of

the state's interest in the particular real property affected. Such certificate shall, as to any party thereafter acquiring real property or any interest therein in the county from said school district, have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. Such effect shall commence upon recordation and shall continue until the certificate is discharged or released as provided herein.

Upon request, the Director of General Services shall (1) issue a release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under Section 17739, provided that delivery of such release may be subject to such conditions as may be prescribed by the board to protect the state's interest; (2) issue a disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under the terms of Section 17739, provided that the delivery of such disclaimer may be subject to such conditions as the board deems appropriate to protect the interest of the state, including conditions relating to the amount of consideration to be received from such disposition where the board asserts an interest in the proceeds of such disposition under other provisions of this chapter. Such release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter, (1) the Director of General Services shall file with the county recorder a release of any such certificate, which release shall be recorded and indexed in the same index as the aforesaid certificate; and (2) the title to personal property purchased by such school district with funds apportioned under this chapter shall revert thereto without further action by the state.

17731. The applicant district, acting as agent for the state, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to school buildings.

17732. The board shall fix rents, charges, and fees for all projects acquired, constructed or completed under the terms of this chapter for the use thereof by any school district utilizing the facilities thereof. The board is authorized to change such rents, charges, and fees from time to time as may be needed to discharge any obligations or costs incurred or incurrable pursuant to this chapter. To the extent and in the manner provided in any indenture, all rents, charges, and fees shall at all times be fixed to yield annual revenue equal to all redemption payments and interest charges and reserve fund requirements on revenue bonds at any time issued and outstanding hereunder, as the same become due.

17733. Rent, charges, and fees collected in error may be refunded by the board in accordance with regulations prescribed by the board.

17734. A county school lease-purchase fund is hereby created in the county treasury within each county for each school district

project in such county.

17735. The board may from time to time authorize the State Controller to transfer such funds as the board may deem necessary from the State School Building Lease-Purchase Fund established for a given project to the corresponding county school lease-purchase fund in the county treasury.

17736. Funds may only be expended from the county school lease-purchase fund by the applicant school district upon specific authorization from the board.

17737. Interest earned on funds in the county school lease-purchase fund shall not be deposited in such fund but shall be retained by the district and used only for the purpose of reducing the amount required from district taxes necessary to offset the annual lease payments withheld by the State Controller pursuant to Section 19373.

17738. The board shall require school districts to insure at their own expense for the benefit of the state, all sites, equipment and buildings which are, under Section 17730, the property of the state, against such risks and in such amounts as the board may deem necessary to protect the interests of the state. No project funds shall be used to pay the premiums on such insurance. All payments resulting from claims made against said insurance shall be made payable to and retained by the board. Funds so received shall be utilized by the board for repair or replacement of the facilities for which claim was made. In no event may the amounts expended from such funds for such repair or replacement exceed the payments received.

17739. Any property, real or personal replaced by a project approved pursuant to this chapter shall be disposed of in a manner satisfactory to the board. The net proceeds received from any such disposition shall be expended, subject to approval by the board, either (1) for capital outlay purposes which would be eligible for a future project pursuant to this chapter; or (2) for the demolition of any facilities replaced by a project approved pursuant to this chapter, or pursuant to Chapter 8 (commencing with Section 16000), Part 9, of this division; or (3) for any other purpose approved by the board.

### Article 3. Allowances

17740. No project shall be approved, the building area of which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17743, 17744, 17745, and 17746.

As used in Sections 17743, 17744, 17745, and 17746, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 17745 and 17746, "attendance

center" means a school maintained or to be maintained at a given location within a district.

No estimate of average daily attendance made by an applicant district for the purpose of justifying an application for an elementary school project shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, or in the case of an application for a junior high school or high school project, for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district which maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless the elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975. When such pupils are so considered in determining or estimating the average daily attendance of the elementary district, such pupils shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

17741. Notwithstanding Section 17740, whenever the area of adequate school construction existing in any attendance area is such as to prevent another attendance area from receiving the maximum area of school construction for each unit of attendance as specified for the district as a whole, the allowable building area may be computed separately for each attendance area. For the purposes of this section an "attendance area" is defined as the geographical area serving an existing or proposed high school and those junior high schools and elementary schools included therein.

17742. The board, by the adoption of rules, shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Such rules shall define and provide for the method of determining building areas that are to be included in whole or in part, or to be excluded from the area of existing adequate school construction. Any building to which Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 Division 3 of Title 2 would apply shall not be considered adequate school construction for the purpose of determining the maximum total building area per attendance unit.

The board may make exceptions to the provisions of this section, or to the rules adopted pursuant thereto, if it determines that such will be for the benefit of pupils affected.

17743. (a) There shall be allowed to each district with

attendance units of 300 or more in kindergarten and grades 1 to 6, inclusive, a maximum area of 55 square feet for each attendance unit of the district in kindergarten and grades 1 to 6, inclusive.

(b) The maximum total building area per attendance unit allowed to applicant districts with attendance units of less than 300 in kindergarten and grades 1 to 6, inclusive, for such attendance units shall be determined by the board, and shall be building area to provide comparable facilities to those provided by subdivision (a) of this section, and shall be the least building area required to house adequately the estimated average daily attendance and the normal instructional and other services.

17744. There shall be allowed to each district a maximum area of 75 square feet for each attendance unit of the district in grades 7 and 8.

17745. The maximum area allowed to a district for attendance units in junior high schools composed of grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, shall be determined pursuant to this section, rather than Sections 17744 and 17746. This section shall not apply to junior high schools composed of grades 7 and 8 only.

The maximum area allowed for attendance units in junior high schools shall be determined by computing, in accordance with this section, the number of square feet for the attendance units at each junior high school attendance center of the district, and totaling the number of square feet so determined for all attendance units in all such junior high school attendance centers of the district. There shall be allowed a maximum area of 75 square feet for each attendance unit of the junior high school attendance center in grades 7 and 8. For each attendance unit in grade 9, or grades 9 and 10, as the case may be, at each junior high school attendance center, there shall be allowed a maximum area equal to the number of square feet which would be allowed under Section 17746 for each attendance unit of an attendance center having a total number of attendance units equal to the total number of attendance units in grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, at such junior high school attendance center. The number of square feet which would be allowed under Section 17746 for each attendance unit of an attendance center shall be computed by determining in accordance with that section the total number of square feet which would be allowed at an attendance center and dividing such total number of square feet by the total number of attendance units at such attendance center.

17746. There shall be allowed to each district a maximum area for the attendance units of the district in grades 9 to 12, inclusive, determined by computing, for the attendance units in grades 9 to 12, inclusive, at each attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area
1- 50.....	18,000
51- 100.....	18,000 plus 162 for each attendance unit over 50
101- 200.....	26,100 plus 99 for each attendance unit over 100
201- 300.....	36,000 plus 60 for each attendance unit over 200
301- 600.....	42,000 plus 54 for each attendance unit over 300
601-1,800.....	58,200 plus 80 for each attendance unit over 600
Over 1,800 .....	154,200 plus 85 for each attendance unit over 1,800

17747. The allowable new building area for the purpose of providing facilities for mentally retarded and physically handicapped pupils shall be computed in accordance with regulations adopted by the board.

17748. Whenever an existing building is to be reconstructed, rather than replaced, under an application pursuant to this chapter, there shall be allowed, for those attendance units to be housed in such reconstructed building, an additional five square feet of building area beyond the amounts set forth in Section 17743, 17744, 17745, or 17746.

17749. Whenever at least 10 percent of the allowable new building construction contained in an application is to be utilized for relocatable structures, an additional three square feet of building area shall be allowed, for those attendance units to be housed in new buildings under such application, beyond the amounts set forth in Section 17743, 17744, 17745, or 17746.

## PART 11. LIBRARIES

### CHAPTER 1. BOARD OF LIBRARY EXAMINERS

18000. There is in the state government a commission known as the Board of Library Examiners, consisting of the State Librarian, who is ex officio chairman of the board, the President of the California Library Association, the librarian of the Public Library of the City and County of San Francisco, and the librarian of the Los Angeles Public Library. The members of the board shall receive no compensation for their services, except their actual and necessary traveling expenses, to be paid out of the moneys appropriated for the support of the Division of Libraries.

18001. The board shall pass upon the qualifications of all persons desiring to become county librarians, maintain a register of all librarians who meet the qualifications prescribed by the board, and

maintain a register of qualified library assistants. The board may, in writing, adopt rules and regulations not inconsistent with law for its own government, and for carrying out the purposes of this chapter.

## CHAPTER 2. SCHOOL LIBRARIES

### Article 1. Establishment and Maintenance

18100. The governing board of each school district or community college district shall provide school library services for the pupils and teachers of the district by establishing and maintaining school libraries or by contractual arrangements with another public agency.

18101. The State Board of Education shall adopt standards, rules and regulations for school library services.

The Board of Governors of the California Community Colleges shall adopt standards, rules, and regulations for school library services for community colleges.

18102. Libraries may be established and maintained under the control of the governing board of any school district or community college district.

18103. The libraries shall be open to the use of the teachers and the pupils of the school district or community college district during the schoolday. In addition, the libraries may be open at such other hours, including evenings and Saturdays, as the governing board may determine. Libraries open to serve students during evening and Saturday hours shall be under the supervision of certificated personnel. Certificated personnel employed to perform full-time services in an elementary, junior high, or high school during the regular schoolday, may supervise, but shall not without their consent be required to supervise, a school library on evenings or Saturdays. If such a person agrees to supervise the school library during Saturday or evening hours, he shall be compensated in the amounts determined by the governing board of the district as indicated on the salary schedule.

### Article 2. Books

18110. County boards of education may adopt lists of books and other library materials for districts not employing a superintendent of schools or a librarian for full time. The lists may be distributed to all school districts or community college districts in a county for use in the selection of books and other library materials.

18111. The governing board of any school district or community college district may exclude from schools and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character.

### Article 3. Management

18120. The governing board of a school district or community college district maintaining its own library or libraries may appoint a librarian or librarians to staff such libraries provided they qualify as librarians pursuant to Section 44868 or 87435.

18121. The governing board of a school district or community college district is accountable for the proper care and preservation of the school libraries of the district, and may make all necessary rules and regulations not provided for by the State Board of Education, or the Superintendent of Public Instruction, or the board of governors and not inconsistent therewith.

18122. The governing board of a school district shall, on or before August 31st, in each year, report to the State Department of Education or the board of governors as appropriate, on the condition of school libraries, for the year ending June 30th preceding. The report shall, in addition to other matters deemed expedient by the governing board or the librarians, contain such statistical and other information as is deemed desirable by the State Department of Education or the board of governors. For this purpose the State Department of Education or the board of governors may send to the several districts under their supervision, instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

### Article 4. Affiliation With County and City Libraries

18130. Whenever the county in which a district is situated maintains a county library, the governing board of any school district or community college district may agree with the proper authorities of the county to contract for the provision of school library services by the county library. Either the governing board of the school district or community college district or the governing body of the county library may initiate proceedings for the provision of library services for the schools of the district. Such agreements shall be reviewed annually by contracting parties.

18131. Notwithstanding any other section of this article to the contrary, school districts or community college districts may purchase textbooks, reference books, periodicals, and other publications approved by any board authorized to adopt such materials in addition to those furnished by the county library.

18132. All funds transferred to a county library pursuant to this article shall be used by the county library only for: (a) the acquisition of such books and other materials as are adopted by the body authorized to adopt courses of study for the school districts or community college districts which have entered into an agreement for the provision of school library services by the county library, and (b) the care and distribution of the books and other materials to schools which are eligible to receive school library services from the county library.

18133. The county librarian may (a) at his discretion dispose of books and other materials no longer fit for service, and (b) with the approval of the county board of education dispose of any books or other materials no longer needed by the course of study.

18134. In any city conducting a public library owned and managed by the city, the governing board of any school district or community college district may enter into an arrangement with the governing body of the public library of the city similar to the arrangement authorized by this article between the governing boards of any school district or community college district and the county library.

18135. Whenever an agreement is made that school library services will be provided by a city, or county library, the county, or city and county, or city superintendent of schools may draw a warrant for the whole amount stipulated in the agreement, payable to the proper authorities of the library, upon the filing with him of a copy of the resolution of the governing board of the district embodying the agreement made with the library. The copy shall be duly certified as correct by the clerk of the district or other proper officer.

18136. The governing board of any high school district lying wholly or partly within a county maintaining a county free library may enter into a contract or agreement with the board of supervisors of the county by which the high school district may secure the advantages of the county free library upon such terms and conditions as are fixed in the contract or agreement.

18137. Whenever the governing board of a school district or community college district enters into an agreement with a county or city library for school library services the district shall provide for the care and custody of and assume responsibility for the books and other property delivered to it subject to the rules and regulations of the county or city library and the terms of the agreement.

18138. With the consent of the county superintendent of schools the governing board of the school district or community college district may agree with the proper authorities of the county or city to terminate the affiliation of the district with the county or city library. Either the governing board of the school district or community college district or the governing body of the county library may initiate termination proceedings. The proceedings shall be terminated prior to the first day of February of the school year in which begun and may provide for either:

(a) The complete withdrawal of affiliation effective on the first day of July next succeeding, or

(b) A gradual withdrawal over a period of not to exceed three years beginning on the first day of July next succeeding the termination of proceedings.

The governing board of the school district or community college district shall enter into a written agreement with the proper

authorities of the city or county providing for the terms of the gradual withdrawal, including the period to be covered, not to exceed three years, the amount of payment for each year, and the amount of service to be rendered.

Unless otherwise provided in the withdrawal agreement, the books purchased by a district during the period of the withdrawal become the property of the district.

All books purchased by a district shall be approved by the body authorized to adopt courses of study for the school districts or community college districts of the county.

18139. With the consent of the county board of education, in those counties in which the county superintendent of schools performs library services for the school library of any district, the governing board of the school district or community college district may agree with the proper authorities of the county to terminate the affiliation of the district with the county superintendent of schools with respect to library services. The proceedings shall be terminated prior to the first day of February of the school year in which begun and may provide for either:

(a) The complete withdrawal of affiliation effective on the first day of July next succeeding, or

(b) A gradual withdrawal over a period of not to exceed five years beginning on the first day of July next succeeding the termination of proceedings.

The county board of education shall adopt rules and regulations governing such a gradual withdrawal, including the period to be covered, not to exceed five years, the amount of payment for each year, and the amount of service to be rendered. The terms of such gradual withdrawal shall comply with such rules and regulations.

#### Article 5. Use of Library Fund

18170. The governing board of any school district or community college district shall expend the library fund, together with such money as is added thereto by donation, in the purchase of school apparatus and books for a school library, including books for supplementary work.

18171. No warrant shall be drawn by the superintendent of schools upon the order of any governing board of any school district or community college district against the library fund of any district unless the order is accompanied by an itemized bill, showing the books and apparatus, and the price of each in payment of which the order is drawn, and unless the books and apparatus, except in the case of library books and apparatus purchased by a district employing a district superintendent of schools or a school librarian for full time, have been adopted by the county, city, or city and county board of education.

18172. All orders of the governing board of any school district or community college district for books or apparatus shall in every case

be submitted to the superintendent of schools of the county, city, or city and county, respectively, for his approval, before the books or apparatus shall be purchased.

### CHAPTER 3. UNIFIED SCHOOL DISTRICTS AND UNION HIGH SCHOOL DISTRICTS PUBLIC LIBRARIES

#### Article 1. Definitions

18300. "Trustees," or "library trustees" as used in this chapter mean the regularly elected union high school trustees who reside within the library district.

18301. "Library," "library district," or "library districts" as used in this chapter mean "union high school library district."

#### Article 2. Unified School Districts

18310. For the purposes of this chapter a unified school district has all of the powers and duties of a union high school district. A library district may be formed upon the application of 50 or more taxpayers and residents of any unified district, and after an election, in the manner prescribed by this chapter for the formation of a library district upon the application of taxpayers and residents of a union high school district. If the requisite number of votes cast at the election are in favor of a unified school district library district the board of supervisors shall by resolution establish the library district and place the district in the control of the governing board of the unified school district.

18311. As used in this chapter the words "union high school district" mean union high school district or unified school district and the words "union high school" mean union high school or unified school district. Whenever the provisions of this chapter are being exercised by, or are being made applicable in, a unified school district, the words "union high school district" and "union high school" shall be deemed to mean unified school district.

18312. If there are formed substantially within the territory of a union high school library district two or more unified school districts, the library district shall become a unified school district library district which shall be governed by the governing board of the unified school district whose territory includes the largest portion of the territory of the library district.

#### Article 3. Establishment

18320. Any union high school district may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature, in accordance with this chapter.

18321. The title to all property acquired for the purposes of the library, when not inconsistent with the terms of its acquisition, or not

otherwise designated, vests in the district in which the library is, or is to be, situated.

18322. Every union high school library established under this chapter shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and bylaws as may be made by the board of library trustees. For violations of any rule, regulation, or bylaw a person may be fined or excluded from the privileges of the library.

#### Article 4. Formation of District

18330. Upon the application by petition of 50 or more taxpayers and residents of any union high school district to the board of supervisors in the county in which the union high school district is located, praying for the formation of a library district, and setting forth the boundaries of the proposed district, the board of supervisors shall, within 10 days after receiving the petition, by resolution, order that an election be held in the proposed district for the determination of the question and shall appoint three qualified electors thereof to conduct the election.

18331. The election shall be called by posting notices in three of the most public places in the proposed library district, and by publication in a daily or weekly paper therein, if there is one, at least once a week for not less than 15 days. The notices shall specify the time, place, and the purpose of the election, and the hours during which the polls will be kept open.

18332. In districts with a population of 10,000 or over, the polls shall be opened at 8 o'clock a.m. and kept open until 7 o'clock p.m., and in districts where the population is less than 10,000, the polls shall not be opened before 1 o'clock p.m. and shall be kept open not less than six hours.

18333. The election shall be conducted in accordance with the general election laws of this state, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For Union High School Library District." The voter shall write or print after the words on his ballot the word "Yes" or the word "No."

18334. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election.

18335. The election officers shall report the result of the election to the board of supervisors within five days subsequent to the holding thereof.

18336. If two-thirds of the votes cast at the election are in favor of a union high school library district, the board of supervisors shall, by resolution, establish the library district, and place the district in the control of the governing board of the union high school district.

18337. If more than one-third of the votes cast in the election is against a library district, the board of supervisors shall, by order, so

declare and no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

18338. The fact of the presentation of the petition and the order establishing the library district shall be entered on the minutes of the board of supervisors, and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature and presentation of the petition a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this article, and of the existence and validity of the district.

18339. Every library district shall be designated by the name and style of "\_\_\_\_\_ Library District (using the name of the district) of \_\_\_\_\_ County (using the name of the county in which the district is situated)." A number shall not be used as a part of the designation of any library district.

18340. In the name of the library district, the governing board may sue and be sued, and may hold and convey property for the use and benefit of the district.

18341. The trustees in whose control the library district has been placed shall severally hold office during the term for which they have been elected as trustees of the union high school district.

#### Article 5. Dissolution of Districts

18370. The district may at any time be dissolved if two-thirds of the votes cast at an election called by the library trustees upon the question of dissolution are in favor of the dissolution.

18371. The election shall be called and conducted in the same manner as other elections of the district.

18372. Upon dissolution, the property of the district shall vest in any union high school district in which the library is situated.

18373. If at the time of the election to dissolve the district, there is any outstanding bonded indebtedness of the district, the vote to dissolve the district shall dissolve it for all purposes excepting only the levy and collection of taxes for the payment of the indebtedness. From the time the district is dissolved until the bonded indebtedness, with the interest thereon, is fully paid, satisfied, and discharged, the board of supervisors is ex officio the library board of the district. The board shall levy such taxes and perform such other acts as are necessary in order to raise money for the payment of the indebtedness and the interest thereon.

#### Article 6. Meetings of Boards of Trustees

18380. The boards of library trustees shall meet at least once a month, at such time and place as it may fix by resolution.

18381. Special meetings may be called at any time by two trustees, by written notices served upon each member at least 12

hours before the time specified for the meeting.

18382. Three members constitute a quorum for the transaction of business.

18383. At its first meeting held after the first day of July the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

18384. The board shall cause a proper record of its proceedings to be kept.

18385. At the first meeting of the board of trustees of any library district formed under this chapter it shall immediately cause to be made out and filed with the Department of Education at Sacramento a certificate showing that the library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

#### Article 7. Powers of Boards of Trustees

18400. The board of library trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, and protection of the library under its management, and all property belonging to the library.

18401. The board of library trustees shall administer any trust declared or created for the library and receive by gift, devise, or bequest, and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

18402. The board of library trustees shall prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the boards.

18403. The board of library trustees shall purchase necessary books, journals, publications, and other personal property.

18404. The board of library trustees shall purchase such real property, and erect or rent and equip such buildings or rooms, as in its judgment are necessary to properly carry out the provisions of this chapter.

18405. The board of library trustees may request the appropriate state officials to furnish the library with copies of any and all reports, laws, and other publications of the state not otherwise disposed of by law.

18406. The board of library trustees shall borrow books from, lend books to, and exchange books with other libraries, and shall allow nonresidents to borrow books upon such conditions as it may prescribe.

18407. The board of library trustees shall do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

18408. The board of library trustees shall file through the librarian on or before the last day in August of each year, a report with the State Librarian at Sacramento, giving the condition of its library and the number of volumes contained therein on the 30th day of June preceding. The report shall, in addition to other matters deemed expedient by the board of trustees or the district librarian, contain such statistical and other information as is deemed desirable by the State Librarian. For this purpose the State Librarian may send to the several district librarians instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

18409. The board of library trustees shall designate the hours during which the library will be open for the use of the public.

18410. All public libraries established under this chapter shall be open for the use of the public at all reasonable times.

18411. Boards of library trustees and the boards of trustees of neighboring library districts, or the legislative bodies of neighboring municipalities, or boards of supervisors of the counties in which public libraries are situated, may contract to lend the books of the libraries to residents of the counties, neighboring municipalities, or library districts, upon a reasonable compensation to be paid by the counties, neighboring municipalities, or library districts.

#### Article 8. Library Commission

18440. A board of library trustees may appoint, by resolution or other order entered in the minutes of the board of library trustees, a library commission consisting of five members to manage and operate the library or libraries of the district. Before any board of library trustees appoints a library commission as provided herein, the board of library trustees shall hold at least one public hearing on the matter of the creation of a library commission; notice of such hearing shall be given by publication pursuant to Section 6066 of the Government Code, in a newspaper designated by the board of library trustees and circulated throughout the district, and by posting of the notice in three public places in the district at least 15 days prior to the date of the public hearing.

18441. The members of the library commission shall hold office for three years from the first day of July next succeeding their appointment and until their successors are appointed and qualified, and shall serve without compensation.

18442. The members of the first commission appointed shall be so classified by the board of library trustees at the time of their appointment that the term of office of one of the members shall expire on the first day of July one year after the first day of July next succeeding his appointment, two at the end of one additional year thereafter, and two at the end of two additional years thereafter.

18443. Vacancies shall be filled by the board of library trustees by appointment for the unexpired term.

18444. Within 30 days after their first appointment, and whenever vacancies in any office may occur and are filled, the commission shall meet and organize as a commission, electing a president and a secretary from their number, after which they may transact business. The commission shall meet at least once a month at such time and place as they may fix by resolution. Regular and special meetings shall be called and conducted as prescribed in Chapter 9 (commencing with Section 54950), Part 1, Division 2, Title 5 of the Government Code.

18445. A majority of the commission shall constitute a quorum for the transaction of business.

18446. The commission shall act only by resolution or motion. A majority vote of the members of the commission is required on each action taken, and the vote thereon shall be recorded.

18447. The commission shall cause a proper record of its proceedings to be kept and maintained.

18448. Members of the commission may be allowed actual necessary traveling and incidental expenses incurred in the performance of official business of the district as approved by the commission.

18449. The commission shall do and perform any and all powers and duties authorized or required of the board of library trustees in Article 7 (commencing with Section 18400) of this chapter with the exception of Section 18411, provided that the consent of the board of library trustees shall be necessary before the commission may dispose of property pursuant to Section 18401 and before the purchase, erection, rental, and equipment of buildings or rooms pursuant to Section 18404.

18450. Upon the receipt by the county auditor of an order of the library commission of the district, he shall issue his warrant upon the county treasurer for the amount stated in the order if sufficient funds be on deposit in the account of the district with the county treasurer.

18451. Annually, and on or before the first day of June of each and every year, the commission shall submit or cause to be submitted to the board of library trustees its proposed budget for the operating and maintaining of the library or libraries of the district for the ensuing fiscal year. The proposed budget shall include an estimate of the cost of any or all of the following:

- (a) Leasing of temporary quarters;
- (b) Purchasing of suitable real property;
- (c) Procuring plans and specifications, and erecting a suitable building or buildings;
- (d) Furnishing and equipping the library building, and fencing and ornamenting the grounds for the accommodation of the public library.

18452. The board of library trustees may dissolve the library commission created under the provisions of this article effective as of the 30th day of June next succeeding. Before taking action to dissolve a library commission, the board of library trustees shall hold

at least one public hearing on the matter; notice of such hearing shall be given by publication pursuant to Section 6066 of the Government Code, in a newspaper designated by the board of library trustees and circulated throughout the district, and by posting of the notice in three public places in the district at least 15 days prior to the date of the public hearing.

#### Article 9. Estimates of Funds Needed

18480. In any library district formed under this chapter which maintains a public library, or which has petitioned for and has been granted permission to establish, and intends to maintain, a public library in accordance with this chapter, the board of library trustees shall furnish to the board of supervisors of the county in which the library district is situated, each and every year, on or before the first day of September, an estimate of the cost of any or all of the following:

- (a) Leasing temporary quarters.
- (b) Purchasing a suitable lot.
- (c) Procuring plans and specifications and erecting a suitable building.
- (d) Furnishing and equipping the building, and fencing and ornamenting the grounds for the accommodation of the public library.
- (e) Conducting and maintaining the library for the ensuing fiscal year.

#### Article 10. Tax Levy

18490. When the estimate provided for in Section 18480 has been submitted to the board of supervisors of any county in which a library district has been established, the board of supervisors shall, at the time of levying county taxes, levy a special tax upon all taxable property within the limits of the library district.

18491. The tax levied shall be sufficient in amount to maintain the union high school library, or to purchase the site, erect and equip the building, improve the grounds or building, or for any or all of the purposes enumerated in Section 18480.

18492. The taxes levied shall be computed, entered upon the tax roll, and collected in the same manner as other taxes are computed, entered, and collected.

18493. The revenue derived from the tax, together with all money acquired by gift, devise, bequest, or otherwise for the purposes of the library, shall be paid into the county treasury to the credit of the library fund of the district in which the tax was collected, subject only to the order of the library trustees of the district.

18494. If the payment into the treasury is inconsistent with the terms or conditions of any gift, devise, or bequest, the board of library

trustees shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

#### Article 11. Claims

18500. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

#### Article 12. Election for Issuance of Bonds

18510. The board of trustees of any union high school library district may, when in its judgment it is deemed advisable, and shall upon a petition of 50 or more taxpayers and residents of the library district, call an election and submit to the electors of the district the proposition of whether the bonds of the district shall be issued and sold for the purpose of raising money for any or all of the following purposes:

- (a) The purchase of suitable lots.
- (b) Procuring plans and specifications and erecting a suitable building.
- (c) Furnishing and equipping the building and fencing and ornamenting the grounds, for the accommodation of the union high school library.
- (d) Any or all of the purposes of this chapter.
- (e) Liquidating any indebtedness incurred for the purposes.
- (f) Refunding any outstanding valid indebtedness evidenced by bonds or warrants of the district.

18511. In determining the amount of bonds to be issued and sold, the board of trustees may include:

- (a) Legal or other fees incidental to or connected with the authorization, issuance and sale of the bonds.
- (b) The costs of printing the bonds and other costs and expenses incidental to or connected with the authorization, issuance and sale of the bonds.

If such a determination is made, the proceeds of the sale of the bonds may be used to pay such costs and fees.

18512. The hours during which the polls shall be opened at the election shall be as established by the board, but in no event for less than nine hours.

18513. Voting shall be by ballot, without reference to the general election law in regard to form of ballot or manner of voting, except that the words to appear on the ballot shall be "Bonds—Yes" and "Bonds—No." Persons voting at the bond election shall put a cross (+) upon their ballot with pencil or ink, after the words "Bonds—Yes" or "Bonds—No," as the case may be, to indicate

whether they have voted for or against the issuance of the bonds. The ballot shall be handed by the elector voting to the inspector, who shall then, in his presence, deposit it in the ballot box, and the judges shall enter the elector's name on the poll list.

18514. On the seventh day after the election, at 8 o'clock p.m., the returns having been made to the board of trustees, the board shall meet and canvass the returns.

18515. If it appears that two-thirds of the votes cast at the election are in favor of issuing the bonds, the board shall cause an entry of the fact to be made upon its minutes and shall certify to the board of supervisors of the county all the proceedings had in the premises.

18516. Notice of election shall be given substantially in the manner and for the time provided in Section 18331.

18517. Any election called pursuant to this article may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code. In such event, the provisions of law governing such other election with respect to the manner of marking ballots and hours of elections shall apply.

18518. No error, irregularity, or omission which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of any district are authorized to be issued shall invalidate the election or any bonds authorized by such election.

### Article 13. Issuance and Sale of Bonds

18530. After the provisions of Sections 18510 to 18515, inclusive, have been complied with, the board of supervisors shall issue the bonds of the district, to the number and amount provided in the proceedings, payable out of the building fund of the district, naming it, and the money shall be raised by taxation upon the taxable property in the district, for the redemption of the bonds and the payment of the interest thereon.

18531. The total amount of bonds issued, shall not exceed 5 percent of the taxable property of the district, as shown by the last equalized assessment book of the county.

18532. The bonds shall not bear a rate of interest greater than 8 percent, payable annually or semiannually.

18533. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto.

18534. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds will be payable, which shall not be more than 40 years from the date thereof.

18535. The bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par.

18536. The proceeds of the sale of the bonds shall be deposited in

the county treasury to the credit of the building fund of the library district, and shall be drawn out for the purposes for which the bonds were issued as other library money is drawn out.

#### Article 14. Cancellation of Bonds

18550. Whenever any bonds issued under the provisions of this chapter remain unsold for the period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the board of trustees of the library district for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of the bonds, was embraced within the district for or on account of which the bonds were issued, may petition the board of supervisors to cause the unsold bonds to be withdrawn from market and canceled.

18551. Upon receiving the petition, signed by a majority of the members of the board of trustees, the supervisors shall fix a time for hearing the petition, which shall not be more than 30 days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published for 10 days prior to the day of hearing in a newspaper published in the library district, if there is one, and if there is no newspaper published in the library district, then in a newspaper published at the county seat of the county in which the library district or part thereof is situated.

18552. At the time and place designated in the notice for hearing the petition, or at any subsequent time to which the hearing may be postponed, the supervisors shall hear any reasons that may be submitted for or against the granting of the petition, and if they deem it for the best interests of the library district named in the petition that the unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that the unsold bonds be canceled.

18553. Thereupon the bonds and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

#### Article 15. Tax for Interest and Redemption of Bonds

18560. The board of supervisors, at the time of making a levy of taxes for county purposes, shall levy a tax for that year upon the taxable property in the district, at the equalized assessed value thereof for that year, for the interest and redemption of the bonds.

18561. The tax shall not be less than sufficient to pay the interest of the bonds for that year, and such portion of the principal as is to become due during the year. In any event the tax shall be high enough to raise, annually, for the first half of the term the bonds have to run, a sufficient sum to pay the interest thereon, and, during the balance of the term, high enough to pay the annual interest, and to pay annually, a proportion of the principal of the bonds equal to a

sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to run.

18562. All money levied, when collected, shall be paid into the county treasury to the credit of the library district, and be used for the payment of principal and interest on the bonds, and for no other purpose.

#### Article 16. Payment of Interest and Bonds

18570. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor.

18571. The county auditor shall cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

### CHAPTER 4. PUBLIC LIBRARY SERVICES

#### Article 1. Policy

18700. The Legislature hereby declares that it is in the interest of the people and of the state to aid and encourage the development of free public libraries throughout the state by grants to public library systems for the purpose of:

(a) Assisting them in establishing, improving, and extending library services.

(b) Encouraging them to establish library systems in areas where such cooperation would facilitate improved library services.

18701. It is the intent of the Legislature under this act to distribute grants for the development and improvement of public library service to library systems by a formula that recognizes factors of need, ability, and effort. Need is recognized by basing the distribution, in part, on the population served by library systems and by allowing a special weighting for low density of population. Ability is recognized by adjusting the population estimates by the relative standing of such systems with respect to assessed valuation per capita. Effort is recognized by establishing as a qualification for receiving a grant a minimum level of local support, expressed either as a tax rate or as an amount of expenditure per capita, and by establishing minimum standards of service.

18702. In adopting this chapter, the Legislature declares that its policy shall be:

(a) To oppose the removal of the government and administration of public libraries from local control.

(b) To encourage adequate financing of public libraries from local sources with state aid to be furnished on a limited basis only as a supplement to local support.

(c) To make no requirements, as a condition for receiving aid, concerning library equipment, nonbook services, or particular book or periodical titles.

## Article 2. Definitions

18710. As used in this chapter:

(a) "Public agency" means a county, city and county, city, or any district or other agency (including but not limited to an agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code) authorized by law to provide public library services.

(b) "Library" means a single public library, or two or more such libraries, operated by a public agency.

(c) "System" means a library system formed pursuant to this chapter.

(d) "Plan of service" means a statement describing the specific purposes for which a system is formed, the means and the agencies by which such purposes are to be accomplished, and an estimate of the funds necessary for their accomplishment and the public agency or agencies who are to receive those funds.

## Article 3. Administration

18720. The State Librarian shall administer the provisions of this chapter, and shall prescribe such rules and regulations as are necessary to carry out its provisions.

18721. The State Library may expend any funds appropriated for expenditure under this chapter.

## Article 4. Local Control

18730. Nothing in this chapter shall be construed as authorizing the state to require libraries, as a condition for receiving grants, to:

(a) Acquire or exclude any specific book, periodical, film, picture, or other material, or any specific equipment, or to acquire or exclude any classification of books or periodicals by author, subject matter or type.

(b) Institute or eliminate any particular type of library service.

(c) Include or exclude for employment any particular number or class of personnel or to include or exclude any specific person for employment.

(d) Require minimum qualifications of library personnel.

## Article 5. Library Systems

18740. A library system may consist of any of the following systems:

(a) A library system consisting of a library operated by a single public agency.

(b) A consolidated library system, in which two or more public agencies consolidate their libraries to form a single library.

(c) A cooperative library system in which two or more public

agencies enter into a written agreement to implement a plan of service for the agencies so contracting.

18741. The formation of a library system shall be accomplished in the following manner:

(a) An application for grants shall be submitted to the State Librarian, together with a plan of service approved by the participating public agency or agencies. The application for grants shall be accompanied by an official resolution passed by the city council in the case of a city, the county board of supervisors with respect to county libraries, or the governing board of a library district with respect to library district libraries. The system plan of service shall be incorporated by reference in the resolution. A plan of service shall, among other things, where a cooperative library system is involved, designate an executive committee for the system appointed by the governing bodies of the appropriate public agencies.

(b) The State Librarian shall not approve an application until funds are available for the grants sought.

(c) If the State Librarian approves the plan of service and the application, the public agency or agencies shall execute a contract with the State Librarian specifying the services to be rendered in order to implement the plan of service. The contracts shall be subject to the limitations provided in Article 4 (commencing with Section 18730) and shall contain the minimum provisions specified in Section 18752.

18742. The State Librarian shall assist public agencies in the preparation and submission of applications for inclusion in an existing library system.

18743. The State Librarian shall determine the final date each year for the submission of requests for grants, and any remaining funds which had been tentatively allocated for grants which subsequently did not qualify shall be distributed on a pro rata basis among those grants which did qualify.

18744. The governing board of a school district or community college district, whose territory is served by one or more public agencies authorized to provide public library services, may contract with one or more of them for the purpose of making such services available to the pupils attending the schools maintained by the district. Expenses incurred by a school district pursuant to such a contract shall be a pro rata charge upon the general fund of the school district.

#### Article 6. Grants in General

18750. There shall be a program of grants, as follows:

(a) Establishment grants.

(b) Annual per capita grants.

18751. To qualify for grants under this chapter, a library system, once established, must:

(a) Provide equal access to all participating libraries to all residents of the area served by the system. Nothing in this chapter shall prevent the negotiation of agreements, or the exchange of funds, or the establishment of individual user charges designed to wholly or partially correct any imbalance of service caused by adherence to this subdivision; provided that over a period of not less than one year, the public agencies exchanging funds or the public agency imposing the user fee find that an imbalance of service exists.

(b) Provide for the annual addition of at least 4,000 new book titles to each library system which has a population of less than 75 persons per square mile, and the annual addition of 7,000 book titles to each library system which has a population of 75 or more persons per square mile.

(c) Have available in each system having a population of less than 75 persons per square mile at least 100,000 volumes, 40,000 of which have been acquired within 10 years, and in each system having a population of 75 or more persons per square mile at least 200,000 volumes, 60,000 of which have been acquired within 10 years.

(d) Have available in the system at least 7,500 reference book titles in its noncirculation collection.

(e) Have acquired in each system having a population of less than 75 persons per square mile subscriptions to at least 400 periodicals, including both juvenile and adult types, with one-half of such periodicals being on microform or in back files for the past 10 years, and in each system having a population of 75 or more persons per square mile subscriptions to at least 700 periodicals, including both juvenile and adult types, with three-quarters of such periodicals being on microform or in back files for the past 10 years.

(f) Have expended funds from local sources for total operating expenses, excluding capital expenditures, for each library within the system, in the fiscal year immediately preceding that in which application is made, and also have budgeted for the year in which application is made equivalent to the minimum specified in this subdivision. That minimum shall be either (1) the equivalent of a tax rate of fifteen cents (\$.15) on each one hundred dollars (\$100) of the total assessed valuation of the area served by each library within the library system, as shown by the equalized assessment roll or rolls of such area for the preceding year, or (2) two dollars and fifty cents (\$2.50) annually per capita in the area served by each library within the library system, whichever is less.

(g) Not expend less funds per capita from local sources for operating expenditures than it did in the preceding year.

(h) Carry out the provisions of the contracts entered into with the State Librarian designed to implement the plan of service.

18752. All grants shall be made according to the provisions of this chapter and the terms of the written contracts entered into between the respective public agencies and the State Librarian. These contracts, for establishment and per capita grants, shall, among other things:

(a) Specify the public agency or agencies to which payment is to be made, and the purposes for which the grants are to be expended.

(b) Specify the amount, time, and manner of payment.

(c) Specify that payment is to be conditioned upon receipt by the board of any progress report from the system, if it is one which has been requested for submission by the date of payment by the State Librarian.

(d) Specify that the grant can be expended only in augmentation, and not in lieu of, local appropriations.

(e) Specify that all requirements of Section 18751 shall be met.

(f) Specify that if no state grants are made the public agencies will not be bound to follow any of the provisions of the contract.

18753. An establishment grant for a system shall not exceed 25 percent of the total operating expenditures for the library or each of the libraries within that system, excluding capital expenditures, for the last completed fiscal year, except where there were no expenditures for the library for the last completed fiscal year, in which case the establishment grant for the system shall be the maximum provided for in Section 18770.

#### Article 7. Establishment and Per Capita Grants

18770. Establishment grants in the annual maximum amount of ten thousand dollars (\$10,000) shall be made for the system:

(a) For the library of each public agency which joins with one or more other public agencies in forming a library system.

(b) For the library of each public agency which joins an established system.

(c) For each library which is established in a previously unserved area and which qualifies as part of a system for the purpose of receiving state aid.

An establishment grant shall be paid as to each library under subdivision (a), (b) or (c) of this section, in respect to each of the first two years during which it is part of a library system.

18771. From funds appropriated by the Legislature under this chapter, requirements for establishment grants shall have priority as determined by the State Librarian. From funds remaining after allocations for establishment grants, annual per capita grants shall be made for each library system which is formed following the procedure outlined in Article 5 (commencing with Section 18740) of this chapter and which meets the minimum standards specified in Article 6 (commencing with Section 18750) of this chapter as follows:

(a) Determine the assessed value of properties subject to taxation for library support in each single library area;

(b) Adjust the values determined by paragraph (a) by applying to them the factor provided for in Sections 41200 or 84200 and 41201 or 84261 of this code appropriate to the county wherein the values lie, but in no event shall any of the other provisions of those sections be applicable;

(c) Determine the sum of the populations taxed for library support of all single libraries in the state and, similarly, determine the sum of the assessed valuations computed in paragraph (b);

(d) Divide the total valuation assessed for library support in the state by the population of the state taxed for libraries; this will determine the assessed valuation per capita;

(e) For each single library divide adjusted assessed valuation of each library's area by its population to determine each single library's assessed valuation per capita;

(f) For each single library, divide the adjusted statewide assessed valuation per capita in the state by the adjusted assessed valuation per capita in the library area;

(g) Multiply the population in each library area by the figure of each such library as determined in accordance with paragraph (f); these figures shall be designated as basic weighted population values; and shall be the basis of determining the basic per capita grants;

(h) Multiply the basic weighted population of each of the library areas by a factor of 0.3 (or 30 percent) as to all library areas wherein the population per square mile is 100 or less; the resulting values shall be designated as supplementary weighted population values, and shall be the basis of determining supplementary project grants for such sparsely populated library areas;

(i) Determine the sum of the basic and supplementary weighted population for the entire state;

(j) Divide the amount available for distribution to the libraries by the total weighted population, basic and supplementary, of the state, in one-thousandths; the resulting amount may be apportioned on account of each one-thousandth of weighted population, basic and supplementary, in any single library;

(k) With regard to basic weighted populations, any qualifying library system is eligible to receive funds as determined in accordance with paragraph (j);

(l) With regard to supplementary weighted populations, any library system which has single-library populations of 100 or less per square mile may apply for project grants, but only up to a total amount equal to the sum of all of the supplementary weighted population in one-thousandths contained within the system multiplied by the figure determined in paragraph (j); those sums would be available as project grants for the purpose of extending and improving library services in such sparsely populated areas.

Money not distributed under initial allocations may be reapportioned to library systems on the basis of the shares that each system's basic weighted populations represent in relation to the basic weighted population of all the library systems receiving grants.

18772. If a public agency or two or more public agencies desiring to form a consolidated or cooperative system, applying for grants is unable to meet all of the minimum standards of Section 18751, the public agency or agencies may submit to the State Librarian a plan of service officially adopted by the public agency or agencies

concerned for meeting all of the standards within a period of four completed fiscal years, the plan to indicate how much progress towards meeting the standards it is anticipated will be achieved each year. The State Librarian may then approve grants in the full amount to which the public agencies would be eligible were they to meet all standards, subject to the condition that a review will be made by the State Librarian of the provisional annual reports for the library systems, and that the second annual per capita grant will be contingent upon satisfactory achievement of the goals set up for the first fiscal year, according to the plan of service.

## CHAPTER 5. MUNICIPAL LIBRARIES

### Article 1. Establishment

18900. The common council, board of trustees, or other legislative body of any city in the state may, and upon being requested to do so by one-fourth of the electors of the municipal corporation in the manner provided in this article, shall, by ordinance, establish in and for the municipality a public library if there is none already established therein.

18901. The request may be by a single petition, or by several petitions. The several petitions shall be substantially in the same form. The single petition, or several petitions in the aggregate, shall have, the signatures of the requisite number of electors.

### Article 2. Trustees

18910. The public library shall be managed by a board of library trustees, consisting of five members, to be appointed by the mayor, president of the board of trustees, or other executive head of the municipality, with the consent of the legislative body of the municipality.

18911. The trustees shall hold office for three years. The members of the first board appointed shall so classify themselves by lot that one of their number shall go out of office at the end of the current fiscal year, two at the end of one year thereafter, and two at the end of two years thereafter.

The legislative body of the municipality may, by ordinance, provide for the compensation of such trustees; provided that the respective compensation for such trustees shall not exceed fifty dollars (\$50) per month.

18912. Men and women are equally eligible to appointment as trustees.

18913. Vacancies shall be filled by appointment for the unexpired term in the same manner as the original appointments are made.

18914. Boards of library trustees shall meet at least once a month at such times and places as they may fix by resolution.

18915. Special meetings may be called at any time by three

trustees, by written notice served upon each member at least three hours before the time specified for the proposed meeting.

18916. A majority of the board shall constitute a quorum for the transaction of business.

18917. The board shall appoint one of its number president, who shall serve for one year and until his successor is appointed, and in his absence shall select a president pro tem.

18918. The board shall cause a proper record of its proceedings to be kept.

18919. The board of library trustees may make and enforce all rules, regulations, and bylaws necessary for the administration, government, and protection of the libraries under its management, and all property belonging thereto.

18920. The board of library trustees may administer any trust declared or created for the library, and receive by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

18921. The board of library trustees may prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library; determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the board.

18922. The board of library trustees may purchase necessary books, journals, publications, and other personal property.

18923. The board of library trustees may purchase real property, and erect or rent and equip, such buildings or rooms, as may be necessary, when in its judgment a suitable building, or portion thereof, has not been provided by the legislative body of the municipality for the library.

18924. The board of library trustees may request the appropriate state officials to furnish the library with copies of any and all reports, laws, and other publications of the state not otherwise disposed of by law.

18925. The board of library trustees may borrow books from, lend books to, and exchange books with other libraries, and may allow nonresidents to borrow books upon such conditions as the board may prescribe.

18926. The board of library trustees may do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

18927. The board of library trustees, or if there is no board of trustees, then the administrative head of the library shall, on or before August 31st, in each year, report to the legislative body of the municipality and to the State Librarian on the condition of the library, for the year ending the 30th day of June preceding. The reports shall, in addition to other matters deemed expedient by the board of trustees or administrative head of the library, contain such statistical and other information as is deemed desirable by the State

Librarian. For this purpose the State Librarian may send to the several boards of trustees or administrative heads of the library instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

### Article 3. Support of Libraries

18950. The legislative body of any municipality in which a public library is established pursuant to this chapter, shall in making the annual tax levy and as part thereof, if the construction and maintenance of the library has not been otherwise provided for, levy a tax for the purpose of construction and maintaining the library and purchasing property necessary therefor. The tax shall be in addition to other taxes, the levy of which is permitted in the municipality. The tax levy shall not exceed thirty cents (\$.30) per one hundred dollars (\$100) of assessed valuation. As used in this section, maintenance includes preserving, repairing and altering existing structures.

18951. The revenue derived from the tax, together with all money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be apportioned to a fund to be designated the library fund, and shall be applied to the purposes authorized in this chapter.

18952. If payment into the treasury is inconsistent with the conditions or terms of any gift, devise, or bequest, the board shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

18953. Payments from the fund shall be made upon warrants issued after due audit by, and an order from, the library trustees. The warrants shall be signed by the president and secretary of the board of library trustees. The treasurer of the municipality shall pay such warrants without any further order or warrant from any other authority.

### Article 4. Government

18960. Every library established pursuant to this chapter shall be forever free to the inhabitants and nonresident taxpayers of the municipality, subject always to such rules, regulations, and bylaws as may be made by boards of library trustees. Any person who violates any rule, regulations, or bylaw may be fined or excluded from the privileges of the library.

18961. The board of library trustees and the legislative body of any neighboring municipality or the board of supervisors of the county in which the public library is situated, may contract for lending the books of the library to residents of the county or neighboring municipality, upon a reasonable compensation to be paid by the county or neighboring municipality.

18962. The title to all property acquired for the purposes of the

library, when not inconsistent with the terms of its acquisition, or otherwise designated, vests in the municipality in which the library is situated, and in the name of the municipal corporation may be sued for and defended by action at law or otherwise.

18963. Any municipal library which was established and existed on June 11, 1909, under the provisions of an act entitled "An act to establish free public libraries and reading rooms," approved April 26, 1880, is continued under the provisions of this chapter and shall be considered the same as if established under the provisions of this chapter. This chapter has no application to any library established or governed by a city charter, and any city charter is in no manner affected by this chapter.

18964. Any ordinance establishing a library adopted pursuant to this chapter shall be repealed by the body which adopted it upon being requested to do so by 51 percent of the electors of the municipal corporation, as shown by the great register. Upon the repeal of the ordinance the library is disestablished in the municipal corporation.

18965. Whenever the governing bodies of two or more cities or counties consolidate their existing public library services, as a joint exercise of powers under Chapter 5 (commencing with Section 6500), Division 7, Title 1 of the Government Code, and the ownership or management of the cities' and counties' library facilities and other library assets are turned over to a newly formed joint agency, any boards of public library trustees existing prior to the consolidation, may be dissolved by ordinance.

## CHAPTER 6. COUNTY FREE LIBRARIES

### Article 1. Establishment

19100. The boards of supervisors of the several counties may establish and maintain, within their respective counties, county free libraries pursuant to this chapter.

19101. The board of supervisors of any county may establish at the county seat or elsewhere in the county, a county free library for that part of the county lying outside of cities maintaining free public libraries, and outside of library districts maintaining district libraries, and for all such additional portions of the county as may elect to become a part of, or to participate in, the county free library system as provided in this chapter.

19102. At least once a week for two successive weeks prior to taking any action, the board of supervisors shall publish, in a newspaper designated by it and published in the county, notice of the contemplated action, giving the date of the meeting at which the action is proposed to be taken.

19103. After the establishment of a county free library, the board of trustees, common council, or other legislative body of any city in the county maintaining a free public library, or the board of trustees

of any library district maintaining a district library, may notify the board of supervisors that the city or library district desires to become a part of the county free library system. Thereafter the city or library district shall be a part of the system and its inhabitants shall be entitled to the benefits of the county free library, and the property within the city or library district shall be liable to taxes levied for county free library purposes.

19104. The board of trustees, common council, or other legislative body of any city or the board of trustees of any library district may on or before January 1st of any year, notify the board of supervisors that the city or library district no longer desires to be a part of the county free library system. The notice shall be accompanied by a statement complying with the requirements of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code. The clerk of the board of supervisors shall file the statement with the county assessor and the State Board of Equalization. Thereafter the city or library district shall cease to participate in the benefits of the county free library, and the property situated in the city or library district shall not be liable to taxes for county free library purposes.

19105. If the notice is given after January 1st of any year, the property situated in the city or library district shall be liable to taxes for county free library purposes during the immediately succeeding year, and the notice shall not be effective until the next succeeding year, and library service shall be rendered in the city or library district during the year for which taxes are levied for library purposes in the city or library district.

19106. Before any board of trustees, common council, or other legislative body of any city, or the board of trustees of any library district gives notice that the city or library district desires to become a part of the county free library system, or gives notice of withdrawal from the system, the board of trustees, common council, or other legislative body of the city or the board of trustees of the library district shall publish at least once a week for two successive weeks prior to the giving of either notice, in a newspaper designated by the board of trustees, common council, or other legislative body of the city or the board of library trustees of the library district, and circulating throughout the city or library district, notice of the contemplated action, giving the date and the place of the meeting at which the contemplated action is proposed to be taken.

19107. The board of supervisors of any county in which a county free library has been established may enter into contracts with any city maintaining a free public library, and any such city, through its board of trustees or other legislative body, may enter into contracts with the county to secure to the residents of the city the same privileges of the county free library as are granted to, or enjoyed by, the residents of the county outside of the city, or such privileges as are agreed upon in the contract, upon such consideration named in the contract as is agreed upon, to be paid into the county free library

fund. Thereupon the residents of the city shall have the same privileges with regard to the county free library as the residents of the county outside of the city, or such privileges as are agreed upon by the contract.

19108. The board of supervisors of any county in which a county free library has been established may enter into a contract with the board of supervisors of any other county to secure to the residents of the other county such privileges of the county free library as are agreed upon by the contract and upon such considerations as are agreed upon in the contract to be paid into the county free library fund. Thereupon the inhabitants of the other county shall have such privileges of the county free library as are agreed upon by the contract.

19109. The board of supervisors of any county may enter into a contract with the board of supervisors of another county in which a county free library has been established, and may levy a library tax, for the purpose of carrying out the contract.

19110. The board of supervisors of any county may contract with the board of supervisors of any other county or two or more other counties to provide for the services of a single qualified librarian to serve simultaneously as the county librarian of each county.

When so appointed the county librarian shall be required to establish a residence in but one of the counties in which he is appointed.

19111. The making of the contract shall not bar the board of supervisors of the county during the continuance of the contract from establishing a county free library under the provisions of this chapter if none is already established. Upon the establishment of any county free library, the contract may be terminated upon such terms as may be agreed upon by the parties thereto, or may continue for the term thereof.

19112. Instead of establishing a separate county free library, the board of supervisors may enter into a contract with the board of library trustees or other authority in charge of the free public library of any city and the board of library trustees, or other authority in charge of the free public library, may make such a contract. The contract may provide that the free public library of the city shall assume the functions of a county free library within the county with which the contract is made, including cities in the county. The board of supervisors may agree to pay annually into the library fund of the city such sum as may be agreed upon. Either party to the contract may terminate the contract by giving six months' notice of intention to do so.

19113. After a county free library has been established, it may be disestablished in the same manner as it was established. At least once a week for two successive weeks prior to taking any action, the board of supervisors shall publish, in a newspaper designated by them, and published in the county, notice of the contemplated action, giving therein the date of the meeting at which the contemplated action is

proposed to be taken.

19114. Whenever any of the territory being served by a county free library is annexed to, or otherwise included within, any municipal corporation not served by the county free library, the board of supervisors of the county shall order the county free library to continue to serve the territory annexed to, or otherwise included within the municipality, until the end of the fiscal year or years for which a tax has been levied upon the property of the annexed territory for the support of the county free library.

19115. The board of supervisors may establish a reasonable fee to be collected from persons who desire to participate in the services and benefits of the county free library and who are not residents of the territory in the county which is liable for taxes for county free library purposes. In establishing the fee, the board may also prescribe such regulations or limitations applicable to the use of the county free library by such persons as may reasonably be necessary.

## Article 2. County Librarian

19140. Upon the establishment of a county free library, the board of supervisors shall appoint a county librarian.

19141. If any county adopts a civil service system or a limited civil service system for county officers and employees, the county librarian shall be entitled to the benefits of such civil service system.

This section does not limit any powers conferred on any county by charter.

19142. No person is eligible to the office of county librarian unless prior to his appointment, he has received from the board of library examiners a certificate of qualification for the office.

19143. At the time of his appointment, the county librarian need not be a resident of the county nor a citizen of the State of California.

19144. Persons of either sex are eligible to certification for the office of county librarian.

19145. The county librarian shall, prior to entering upon his duties, file the usual oath, and he shall be required to file an official bond in an amount determined by the board of supervisors, unless he is covered by a master bond pursuant to Section 1481 of the Government Code.

19146. The county librarian shall, subject to the general rules adopted by the board of supervisors, build up and manage, according to accepted principles of library management, a library for the use of the people of the county, and shall determine what books and other library equipment shall be purchased.

19147. The salary of the county librarians shall be paid by each of the counties in equal monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid.

19148. The board of supervisors of a county over 400,000 population, as determined by the 1960 decennial census, maintaining

a county free library may provide that the salary of the county librarian be paid from the same fund used for maintaining and operating the county free library.

Nothing in this section shall be construed as modifying the status of the county librarian as a county official pursuant to Section 24000 of the Government Code.

19149. The county librarian and his assistant shall be allowed actual and necessary traveling expenses incurred on the business of the office.

19150. Except when the county librarian is temporarily absent, no person shall serve in the position of county librarian under the title of acting county librarian, or assistant librarian in charge, or any other such title, unless the person has received from the Board of Library Examiners a certificate of qualification for the position of county librarian.

In the event qualified candidates for the position of the county librarian cannot be found, the county supervisors shall secure a written permission from the Board of Library Examiners to appoint an unqualified person to the position. This written permission may be granted by the library examiners for a period of time up to but not exceeding one year. The examiners may from time to time in their discretion renew the permit.

The provisions of this section shall not apply to the present appointment or reappointment of any person serving on September 11, 1957, in any position which is in lieu of the position of county librarian.

### Article 3. Government

19160. The county free library is under the general supervision of the board of supervisors, which may:

(a) Make general rules and regulations regarding the policy of the county free library.

(b) Establish, upon the recommendation of the county librarian, branches and stations throughout the county and may locate the branches and stations in cities wherever deemed advisable.

(c) Determine the number and kind of employees of the library.

(d) Appoint and dismiss the employees upon the recommendation of the county librarian.

19161. No employee shall be removed except for cause.

19162. If any removal is made upon the ground that the services of the employee are no longer required, the removed employee shall have the first right to be restored to the employment when his services are again required.

19163. The board of supervisors may, at the time of appointing any employee, and upon the recommendation of the county librarian, enter into an agreement that the employee is employed for a definite time only.

19164. All employees of the county free library whose duties

require special training in library work shall be graded in grades established by the county librarian, with the advice and approval of the State Librarian, according to the duties required of them, experience in library work and other qualifications for the service required.

19165. Before appointment to a position in the graded service, the candidate shall pass an examination appropriate to the position sought, satisfactory to the county librarian, and show a satisfactory experience in library work. Work in approved library schools or libraries, or certificates issued by the Board of Library Examiners, may be accepted by the county librarian in lieu of such examination.

19166. The county librarian may accept as apprentices, without compensation, candidates possessing personal qualifications satisfactory to him and may dismiss them at any time if in his judgment their work is not satisfactory to him.

19167. The county free libraries are under the general supervision of the State Librarian, who shall from time to time, either personally or by one of his assistants, visit the county free libraries and inquire into their condition. The actual and necessary expenses of the visits shall be paid out of the moneys appropriated for the support of the Division of Libraries.

19168. The State Librarian shall annually call a convention of county librarians, to assemble at such time and place as he deems most convenient, for the discussion of questions pertaining to the supervision and administration of the county free libraries, the laws relating thereto, and such other subjects affecting the welfare and interest of the county free libraries as are properly brought before it. All county librarians shall attend and take part in the proceedings of the convention. The actual and necessary expenses of the county librarians attending the convention shall be paid out of the county free library fund.

19169. The county librarian shall, on or before August 31st, in each year, report to the board of supervisors and to the State Librarian on the condition of the county free library, for the year ending June 30th preceding. The reports shall, in addition to other matters deemed expedient by the county librarian, contain such statistical and other information as is deemed desirable by the State Librarian. For this purpose the State Librarian may send to the several county librarians instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

19170. The board of supervisors, after a county free library has been established, shall annually levy, in the same manner and at the same time as other county taxes are levied, and in addition to all other taxes, a tax not to exceed three mills (\$0.003) on the dollar (\$1) of assessed valuation upon all property in the county outside of cities maintaining free public libraries, union high school library districts maintaining district free public libraries, and outside of library districts maintaining district libraries, and upon all property within

cities and library districts, which have elected to become a part of any county free library system, for the purpose of purchasing property for, establishing, and maintaining the county free library.

19171. The county board of supervisors of any county may in its discretion allocate and appropriate any funds received by the county under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512) for the purpose of establishing, maintaining, and purchasing property for the county free library.

19172. In counties wherein a union high school library district, maintaining a district free public library was established prior to June 30, 1912, and such district has not elected to become a part of the county free library system, the board of supervisors may levy a tax in such amount as may be necessary upon all the property in the county outside of cities maintaining free public libraries, union high school library districts maintaining district free public libraries and outside of library districts maintaining district libraries, and upon all property within cities and library districts, which have elected to become a part of any county free library system, for the purpose of acquiring sites for, and constructing, leasing, building, rebuilding, furnishing, refurnishing, or repairing county free library buildings. In all other counties, county bonds may be issued, in the manner prescribed in Article 1 (commencing with Section 29900) of Chapter 6 of Division 3 of Title 3 of the Government Code, for the erection and equipment of county free library buildings and the purchase of land therefor.

19173. The board of supervisors may create special taxing zones within the territory of the county subject to taxation for county free library purposes for the purpose of levying special taxes within the zones when it is found by the board that the territory within the zones require special services or special facilities in addition to those provided generally by the county free library system and that the special tax levy is commensurate with the special benefits to be provided in the zones.

Taxes levied pursuant to this section, together with taxes levied pursuant to Section 19170, shall not exceed the higher of the limit provided by Section 19170 or the applicable provisions of Section 2263 of the Revenue and Taxation Code.

19174. The board of supervisors may receive, on behalf of the county, any gift, bequest, or devise for the county free library, or for any branch or subdivision of the library.

19175. The title to all property belonging to the county free library is vested in the county. All laws applicable to the collection of county taxes shall apply to the collection of the taxes provided in Sections 19170 and 19172. All moneys of the county free library, whether derived from taxation or otherwise, shall be in the custody of the county treasurer.

19176. Each claim against the county free library fund shall be authorized and approved by the county librarian, or in his absence from the county by his assistant. It shall then be acted upon in the

same manner as other claims against the county.

19177. In any county of this state where a law library exists under the provisions of Chapter 5 (commencing with Section 6300) of Division 3 of the Business and Professions Code, the board of supervisors of the county may enter into contracts, or agreements with the board of law library trustees of the law library for the cooperation of the law library and the county free library, and, in that connection, may contract or agree with the board of law library trustees of the law library that the county librarian and other employees of the county free library perform the duties required to be done or performed by the officers and employees of the law library for a compensation to be named in the contract or agreement, and to be paid into the county free library fund.

19178. The board of supervisors may accept on behalf of the county free library, all books and other property of school libraries and of the teachers' library, and may manage and maintain them as a part of the county free library.

19179. Any county library which was established and existed on April 26, 1911, under the provisions of an act entitled "An act to provide county library systems," approved April 12, 1909, is continued under the provisions of this chapter and shall be considered the same as if established under the provisions of this chapter. If a contract has been entered into between any county board of supervisors and any city pursuant to this article, the contract shall continue in force, and the provisions of Section 19112 shall be applicable thereto, until the establishment and equipment of a county free library under the provisions of this chapter, unless sooner terminated.

19180. The board of supervisors of any county in which there has been established a county free library which does not serve the entire county may, on behalf of the county free library, construct, build, repair or refurnish buildings to be used for county free library purposes, payment for which may be made from the general fund of the county. If payment is made from the county's general fund, the county auditor shall each fiscal year thereafter transfer from the county free library fund to the county's general fund as a prior claim against the county free library fund for as many years as are determined by the board of supervisors but not to exceed 20, an equal annual installment in such amount that over the designated period of years the entire payment from the county's general fund will be completely repaid. Payment of the costs of the construction of a county free library building may also be made from the employees retirement fund of a retirement system established under the authority of the County Employees Retirement Law of 1937 as an investment of that fund and under the conditions specified in that law.

## CHAPTER 7. STATE LIBRARY

## Article 1. Division of Libraries in Department of Education

19300. The Legislature hereby declares that it is in the interest of the people and of the state that there be a general diffusion of knowledge and intelligence through the establishment and operation of public libraries. Such diffusion is a matter of general concern inasmuch as it is the duty of the state to provide encouragement to the voluntary lifelong learning of the people of the state.

The Legislature further declares that the public library is a supplement to the formal system of free public education, and a source of information and inspiration to persons of all ages, and a resource for continuing education and reeducation beyond the years of formal education, and as such deserves adequate financial support from government at all levels.

19301. There is in the Department of Education the Division of Libraries.

19302. The division shall be in charge of a chief who shall be a technically trained librarian and shall be known as the "State Librarian."

19303. The State Librarian shall be appointed by and hold office at the pleasure of the Governor, subject to confirmation by the Senate.

19304. The State Librarian shall administer the State Library in accordance with law and such regulations as may be adopted by the State Board of Education, which board shall determine all policies for the conduct of the State Library.

19305. The State Librarian shall be in attendance at the library during office hours.

19306. The State Librarian may appoint an assistant who shall be a civil executive officer.

## Article 2. Powers and Duties

19320. The Department of Education may:

(a) Make rules and regulations, not inconsistent with law, for its government and for the government of the State Library.

(b) Authorize the librarian to appoint such other assistants as are necessary.

(c) Sell or exchange duplicate copies of books.

(d) Keep in order and repair the books and property in the library.

(e) Prescribe rules and regulations permitting persons other than Members of the Legislature and other state officers to have the use of books from the library.

(f) Collect and preserve statistics and other information pertaining to libraries, which shall be available to other libraries

within the state applying for the information.

(g) Establish, in its discretion, deposit stations in various parts of the state, under the control of an officer or employee of the State Library. No book shall be kept permanently away from the main library, which may be required for official use. Books and other library materials from public libraries of the state may be accepted for deposit, under agreements entered into by the State Librarian and the public libraries concerned, whereby materials which should be preserved but are rarely used in the region may be stored and made available for use under the same conditions that apply to materials in the State Library.

(h) Collect, preserve, and disseminate information regarding the history of the state.

(i) Serve as regional library for the blind, in cooperation with the Library of Congress.

(j) Give advisory, consultive, and technical assistance with respect to public libraries to librarians and library authorities, and assist all other authorities, state and local, in assuming their full responsibility for library services.

(k) Serve as the central reference and research library for the departments of state government and maintain adequate legislative reference and research library services for the Legislature.

(l) Acquire, organize and supply books and other library informational and reference materials to supplement the collections of other public libraries of the state with the more technical, scientific and scholarly works, to the end that through an established interlibrary loan system, the people of the state shall have access to the full range of reference and informational materials.

(m) Make studies and surveys of public library needs and adopt rules and regulations for the allocation of federal funds to public libraries.

(n) Contract, at its discretion, with other public libraries in the state to give public services of the types referred to in subdivisions (g) and (l) of this section, when service by contract appears to be a needed supplement to the facilities and services carried on directly by the State Library.

19321. The Department of Education shall also:

(a) Purchase books, maps, engravings, paintings, and furniture for the library.

(b) Number and stamp all books and maps belonging to the library, and keep a catalog thereof.

(c) Have bound all books and papers that require binding.

(d) Keep a register of all books and property added to the library, and of the cost thereof.

(e) Keep a register of all books taken from the library.

19322. The Department of Education may:

(a) Contract with counties, cities, or districts within this state, agencies of the state, and agencies of the United States government for the purpose of providing library services.

(b) Establish and operate library service centers.

19323. The State Librarian shall make available on a loan basis to legally blind persons, or to persons who are visually or physically handicapped to such an extent that they are unable to read conventional printed materials, in the state tape recordings of books and other related materials. The tape recordings shall be selected by the State Library on the same basis as the State Library's general program for providing library materials to legally blind readers.

19324. The State Librarian may duplicate any braille book master, other than textbook masters, presented by any legally blind person directly to the State Librarian for duplication. The State Librarian may duplicate any braille book master, other than textbook masters, presented by any other person or agency directly to the State Librarian for duplication.

### Article 3. Books

(Heading of Article 3 added by Stats 1976, Ch 1011)

19330. Books may be taken from the library by the Members of the Legislature and by other state officers at any time.

19331. The Controller, when notified by the Department of Education that any officer or employee of the state for whom he draws a warrant for salary has failed to return any book taken by him, or for which he has given an order, within the time prescribed by the rules, or the time within which it was agreed to be returned, and which notice shall give the value of the book, shall, after first informing the officer or employee of the notice, upon failure by him to return the book, deduct from the warrant for the salary of the officer or employee, twice the value of the book, and place the amount deducted in the General Fund.

19332. In case of the neglect or refusal on the part of any officer or employee of the state to return a book for which he has given an order or a receipt or has in his possession, the Department of Education may purchase for the library a duplicate of the book, and notify the Controller of the purchase, together with the cost of the book. Upon the receipt of the notice from the department, the Controller shall deduct twice the cost of the duplicate book from the warrant for the salary of the officer or employee, and place the amount deducted in the General Fund.

19333. The Department of Education may bring suit in its official capacity for the recovery of any book, or for three times the value thereof, together with costs of suit, against any person who has the book in his possession or who is responsible therefor. If the department has purchased a duplicate of any book, it may bring suit for three times the amount expended for the duplicate, together with costs of suit.

19334. Every person who injures or fails to return any book taken is liable in three times its value.

## CHAPTER 8. LIBRARY DISTRICTS

## Article 1. Formation, Annexation, Dissolution

19400. A library district may be organized, as provided in this chapter. The library district may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature and may exercise the powers granted or necessarily implied pursuant to this chapter.

19401. The library district may include incorporated or unincorporated territory, or both, in any one or more counties, so long as the territory of the district consists of contiguous parcels and the territory of no city is divided.

19402. Whenever the formation of a library district is desired, a petition which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of the county in which is located the largest proportionate value of the lands within the proposed district as shown by the last equalized county assessment roll. The board of supervisors to whom the petition is presented is designated in this chapter as the supervising board of supervisors.

19403. The petition shall be signed by registered voters residing within the proposed library district equal in number to at least 5 percent of the number of votes cast in the territory comprising the proposed district at the last preceding general state election at which a Governor was elected.

19404. The proceedings for the filing and hearing of the petition are governed and controlled by the provisions of Sections 58032, 58033, 58034, 58060, and 58061 of the Government Code.

19405. The proceedings for final hearing of the petition and the formation of the district are governed and controlled by the provisions of Article 4 (commencing with Section 58090), Article 5 (commencing with Section 58130), and Article 7 (commencing with Section 58200) of Chapter 1 of Title 6 of the Government Code.

19406. On the filing of written protests by registered voters residing in the proposed district equal in number to at least 50 percent of the number of votes cast in the territory comprising the proposed district at the last preceding general state election at which a Governor was elected, the proceeding for the formation of the district shall be terminated as provided in Sections 58103 and 58104 of the Government Code.

19407. No library district including territory in more than one county shall be organized under this chapter without the concurrent consent by resolution of each board of supervisors involved, as well as the consent of the governing body of each city to be included.

## Article 2. Trustees

19420. Within 30 days after the filing with the Secretary of State of the resolution declaring the organization of the district, a board of three library trustees shall be appointed for the district. The board shall consist of one trustee to be appointed from each unit, in the case of any unincorporated territory by the board of supervisors and in the case of a city by the governing body thereof.

If a board thus appointed would consist of more than three members, the supervising board of supervisors shall appoint three library trustees from the district at large.

If the board thus appointed consists of less than three members, the supervising board of supervisors shall appoint from the district at large enough additional members to make a board of three trustees.

As used in this section, "unit" means all unincorporated territory in the district which lies in a single county and also means each city in the district.

19421. The governing board of the district shall be called "the Board of Library Trustees of \_\_\_\_\_ Library District" (inserting the name of the particular district).

19422. The trustee shall hold office for the term of four years beginning on the second day of the calendar year next succeeding their appointment or election. In any existing district the term of office of the trustees expiring prior to the first general election to be held in an even-numbered year shall continue until his successor in office is duly elected in such election.

19423. The first board of library trustees appointed in a district shall at their first meeting so classify themselves by lot that their terms shall expire: one on the second day of the second calendar year next succeeding his appointment, one at the end of one year thereafter, and one at the end of two years thereafter.

19424. At its first meeting called after the original appointment of the board, and annually thereafter at its first meeting called after the second day of the calendar year, the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

19425. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees of the library district, it shall immediately cause to be made out and filed with the Department of Education at Sacramento a certificate showing that the library district has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

19426. A vacancy in the board of library trustees shall be filled for the unexpired term by appointment of the supervising board of supervisors.

19427. Each library trustee shall hold office until his successor is

elected and qualified.

19428. The board of library trustees shall meet at least once a month, at such time and place as it may fix by resolution.

19429. Special meetings may be called at any time by two trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

19430. Two members constitute a quorum for the transaction of business.

### Article 3. Powers

19460. The board of library trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, and protection of the library under its management, and all property belonging to the district.

19461. The board of library trustees shall administer any trust declared or created for the library, and received by gift, devise, or bequest, and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

19462. The board of library trustees shall prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the board.

19463. The board of library trustees shall purchase necessary books, journals, publications, and other personal property.

19464. The board of library trustees shall purchase real property, and erect or rent and equip, such buildings or rooms, as in its judgment are necessary properly to carry out the provisions of this chapter.

19465. The board of library trustees shall require the Secretary of State and other state officials to furnish the library with copies of any and all reports, laws, and other publications of the state not otherwise disposed of by law.

19466. The board of library trustees shall borrow books from, lend books to, and exchange books with other libraries, and may allow nonresidents of the district to borrow books upon such conditions as the board may prescribe.

19467. The board of library trustees shall borrow money, give security therefor, purchase on contract, and do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

19468. The board of library trustees shall file, through the librarian, on or before the last day of August of each year, a report with the State Librarian at Sacramento giving the condition of its library and the number of volumes contained therein on the 30th day of June preceding. The report shall, in addition to other matters deemed expedient by the board of trustees or the district librarian,

contain such statistical and other information as is deemed desirable by the State Librarian. For this purpose the State Librarian may send to the several district librarians instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

19469. The board of library trustees shall designate the hours during which the library shall be open for the use of the public. All public libraries established under this chapter shall be open for the use of the public during every day in the year.

19470. Annually, at least 15 days before the first day of the month in which county taxes are levied, the board of library trustees of each library district shall furnish to the board of supervisors of the county in which the district or any part thereof is situated, an estimate in writing of the amount of money necessary for all purposes required under this chapter during the next ensuing fiscal year.

19471. Each board of supervisors in which any part of the district is situated shall thereupon levy a special tax upon all taxable property of the county lying within the district sufficient in amount to maintain the district.

19472. The tax shall in no case exceed the rate of fifteen cents (\$.15) on each one hundred dollars (\$100) of the assessed valuation of all taxable property within the district, but it may be in addition to all other taxes allowed by law to be levied upon the property.

19473. The tax shall be computed, entered upon the tax rolls, and collected in the same manner as county taxes are computed, entered, and collected. All money collected shall be paid into the county treasury to the credit of the particular library district fund and shall be paid out on the order of the district board, signed by the president and secretary.

19474. If the district embraces territory lying in more than one county, the amount estimated shall be ratably apportioned among the several counties in the district in proportion to the exact value of the property in the several counties included within the district as shown upon the last equalized assessment rolls of the counties. The estimates apportioned to the several counties shall be rendered to the respective boards of supervisors, and the tax shall be levied and collected by the officials of the counties upon the property of the district lying in each county.

19475. All money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be paid into the county treasury to the credit of the library fund of the district, subject only to the order of the library trustees of the district.

19476. If the payment into the treasury is inconsistent with the terms or conditions of any gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

19477. Upon the receipt by the county auditor of an order of the library trustees of the district, he shall issue his warrant upon the

county treasurer for the amount stated in the order.

19478. When any warrant is presented to the treasurer for payment and it is not paid for want of funds, the treasurer shall endorse thereon "not paid for want of funds" with the date of presentation and sign his name thereto, and from that time the warrant bears interest at the rate of 6 percent per annum until it is paid or until funds are available for its payment and the county treasurer gives notice to the warrant holder that funds are available for the payment. The giving of the notice is deemed complete upon deposit thereof in the United States mail in a sealed envelope addressed to the warrant holder at his address given by him at the time of presentation of the warrant to the treasurer, with postage thereon fully prepaid and registered.

19479. Every library established under this chapter shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and bylaws as may be made by the board of library trustees. For violation of any rule, regulation, or bylaw a person may be fined or excluded from the privileges of the library.

19480. The title to all property acquired for the purposes of the library, when not inconsistent with the terms of its acquisition, or not otherwise designated, vests in the district in which the library is or is to be situated.

19481. Every library district shall be designated by the name and style of \_\_\_\_\_ Library District (using the name of the district) of \_\_\_\_\_ County (using the name of the county or counties in which the district is situated). In that name the trustees may sue and be sued, and may hold and convey property for the use and benefit of the district. A number shall not be used as a part of the designation of any library district.

19482. The board of library trustees and the boards of trustees of neighboring library districts, or the governing bodies of neighboring cities, or boards of supervisors of counties in which public libraries are situated, may contract to lend the books of libraries created under this chapter to residents of the counties, neighboring cities, or library districts, upon a reasonable compensation to be paid by the counties, neighboring cities, or library districts.

19483. Anything in Sections 19100 to 19179, inclusive, to the contrary, notwithstanding, the property in any library district created under this chapter subsequent to the establishment of a county free library is subject to taxation for county free library purposes as though the library district had not been created.

#### Article 4. Claims

19500. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes

or regulations expressly applicable thereto.

#### Article 5. Annual Election of Trustees

19510. An election shall be held biennially in each library district for the election of one or more library trustees who shall hold office for four years beginning on the second day of the calendar year next succeeding his election. This election shall be known as the general district election and shall be held in the district on the same day as the state general election in the even-numbered years.

19511. To be qualified to vote at any library district election a person shall be a resident of the library district, a qualified elector of the county, and shall be registered in the district in which the election is held at least 54 days before the election.

19512. If on the 20th day prior to a general election one person only as been nominated for each of the positions of trustee to be filled at that election, or no person has been nominated for any such positions, and a petition signed by 5 percent of the registered voters requesting that the election be held has not been presented to the board, an election shall not be held.

19513. In such case the publication provided for in Section 19515 shall instead of calling an election state that no election is to be held but that the board of supervisors will appoint those nominated for the positions of trustee.

19514. If pursuant to Section 19512 a district election is not held, the board of supervisors of the county in which the district, or the largest part thereof in area, is situated shall at its next regular meeting appoint to the positions of trustee those persons nominated, and such persons shall qualify, take office, and serve exactly as if elected at a general district election. If no person has been nominated, the board of supervisors shall appoint any qualified voter of the district to the position.

19515. Sections 58000 to 58010, inclusive, of the Government Code and Sections 24020 to 74039, inclusive, of the Elections Code relating to notices and elections shall govern and control this chapter.

#### Article 6. Bonds

19520. The board of trustees of any library district may, when in their judgment it is deemed advisable, and shall, upon a petition of 50 or more taxpayers and residents of the library district, call an election and submit to the electors of the district, the proposition of whether the bonds of the district will be issued and sold for the purpose of raising money for any or all of the following:

- (a) The purchase of suitable lots.
- (b) Procuring plans and specifications and erecting a suitable building.
- (c) Furnishing and equipping the building and fencing and

ornamenting the grounds, for the accommodation of the public library.

(d) Any or all of the purposes of this chapter.

(e) Liquidating any indebtedness incurred for the purposes.

(f) Refunding any outstanding valid indebtedness, evidenced by bonds or warrants of the district.

19521. The bond election shall be called and conducted and the results thereof canvassed, returned, and declared in the manner provided in Sections 24020 to 24039, inclusive, of the Elections Code.

19522. The board of trustees shall set forth in the resolution calling for a bond election the amount and denomination of the bonds, the rate of interest, the number of years that all or any part of the bonds are to run, and the information required in Section 24030 of the Elections Code.

19523. Voting shall be by ballot, without reference to the general election law in regard to form of ballot, or manner of voting, except that the words to appear on the ballot shall be "Bonds—Yes," and "Bonds—No." Persons voting at the bond election shall put a cross (+) upon their ballots, with pencil or ink, after the words "Bonds—Yes," or "Bonds—No," as the case may be, to indicate whether they have voted for or against the issuance of the bonds.

19524. The board of library trustees shall meet on the seventh day after the election, at 8 o'clock p.m., and canvass the returns. If it appears that two-thirds of the votes cast at the election were cast in favor of issuing the bonds, the board shall enter the fact upon its minutes and shall certify all the proceedings to the supervising board of supervisors. Thereupon the board of supervisors shall issue the bonds of the district, in the number and amount provided in the proceedings, and the district shall be named on the bonds. The bonds shall be paid out of the building fund of the district.

The money for the redemption of the bonds and the payment of interest thereon shall be raised by taxation upon the taxable property in the district.

19525. The total amount of bonds issued shall not exceed 5 percent of the taxable property of the district, as shown by the last equalized assessment roll of the county or counties in which the district is situated.

19526. The supervising board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto, and shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 40 years from the date thereof.

19527. The bonds shall not bear a greater amount of interest than 6 percent, to be payable annually or semiannually. The bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof shall be deposited in the county treasury to the credit of the building fund of the library district, and shall be drawn out for the purposes for which the bonds were issued as other library money is drawn out.

19528. The board of supervisors of each county in which any part of the district is situated, at the time of making the levy of taxes for county purposes, shall levy a tax for that year upon the taxable property in the district, at the equalized assessed value thereof for that year, for the interest and redemption of the bonds. The tax shall not be less than sufficient to pay the interest of the bonds for that year, and such portion of the principal as is to become due during the year. In any event the tax shall be high enough to raise, annually, for the first half of the term the bonds are to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay the annual interest and to pay, annually, a proportion of the principal of the bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to run.

19529. All money levied, when collected, shall be paid into the county treasury to the credit of the library district, and shall be used for the payment of principal and interest on the bonds, and for no other purpose. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor. The county auditor shall cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

19530. Whenever any bonds issued under this article remain unsold for the period of six months after having been offered for sale in the manner prescribed by the supervising board of supervisors, the board of trustees of the library district for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of the bonds, was embraced within the district for or on account of which the bonds were issued, may petition the supervising board of supervisors to cause the unsold bonds to be withdrawn from the market and canceled.

19531. Upon receiving the petition, signed by a majority of the members of the board of trustees, the supervising board of supervisors shall fix a time for hearing the petition, which shall be not more than 30 days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published as provided in this chapter.

19532. At the time and place designated in the notice for hearing the petition, or at any subsequent time to which the hearing is postponed, the supervising board of supervisors shall hear any reasons that are submitted for or against the granting of the petition, and if they deem it for the best interests of the library district named in the petition that the unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that the unsold bonds be canceled. Thereupon the bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

## CHAPTER 9. LIBRARY DISTRICTS IN UNINCORPORATED TOWNS AND VILLAGES

### Article 1. Formation

19600. Any unincorporated town or village of this state may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature, in accordance with this chapter.

19601. Upon the application, by petition, of 50 or more taxpayers and residents of any unincorporated town or village to the board of supervisors in the county in which the town or village is located, praying for the formation of a library district, and setting forth the boundaries of the proposed district, the board of supervisors shall, within 10 days after receiving the petition, by resolution, order that an election be held in the proposed district for the determination of the question and shall appoint three qualified electors of the proposed district to conduct the election.

19602. The election shall be called by posting notice in three of the most public places in the proposed library district, and by publication in a daily or weekly paper, if there is one, at least once a week for not less than 15 days. The notices shall specify the time, place, and the purposes of the election, and the hours during which the polls will be kept open.

19603. Within five days after the district formation election has been called, the legislative body which has called the election shall transmit, by registered mail, a written notification of the election call to the executive officer of the local agency formation commission of the county or principal county in which the territory or major portion of the territory of the proposed district is located. Such written notice shall include the name and a description of the proposed district, and may be in the form of a certified copy of the resolution adopted by the legislative body calling the district formation election.

The executive officer, within five days after being notified that a district formation election has been called, shall submit to the commission, for its approval or modification, an impartial analysis of the proposed district formation.

The impartial analysis shall not exceed 500 words in length and shall include a specific description of the boundaries of the district proposed to be formed.

The local agency formation commission, within five days after the receipt of the executive officer's analysis, shall approve or modify the analysis and submit it to the officials in charge of conducting the district formation election.

19604. The board of supervisors or any member or members of the board authorized by the board, or any individual voter or bona fide association of citizens entitled to vote on the district formation proposition, or any combination of such voters and associations of

citizens, may file a written argument for or a written argument against the proposed district formation.

Arguments shall not exceed 300 words in length and shall be filed with the officials in charge of conducting the election not less than 54 days prior to the date of the district formation election.

19605. If more than one argument for or more than one argument against the proposed district formation is filed with the election officials within the time prescribed, such election officials shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the election officials shall give preference and priority in the order named to the arguments of the following:

(a) The board of supervisors or any member or members of the board authorized by the board.

(b) Individual voters or bona fide associations of citizens or a combination of such voters and associations.

19606. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. Such a ballot pamphlet is "official matter" within the meaning of Section 10012 of the Elections Code.

19607. In districts with a population of 10,000 or over, the polls shall be opened at 8 o'clock a.m., and kept open until 7 o'clock p.m., and in districts where the population is less than 10,000, the polls shall not be opened before 1 o'clock p.m., and shall be kept open not less than six hours.

19608. The election shall be conducted in accordance with the general election laws of this state, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For library district," and the voter shall write or print after the words on his ballot the word "Yes," or the word "No."

19609. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election.

19610. The election officers shall report the result of the election to the board of supervisors within five days after the election.

19611. If a majority of the votes at the election is in favor of a library district, the board of supervisors shall by resolution, establish

the library district, and shall appoint five trustees, who shall be qualified electors and residents within the limits of the district, to be known as a board of library trustees of the town or village for which they are appointed.

19612. Vacancies shall be filled by the board of supervisors by appointment for the unexpired term.

19613. If a majority of the votes cast is against a library district, the board of supervisors shall, by order, so declare, and no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

19614. The fact of the presentation of the petition, and the order establishing the library district and making the appointment of the five library trustees, shall be entered in the minutes of the board of supervisors and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature and presentation of the petition, a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this article and of the existence and validity of the district.

## Article 2. Powers

19640. The board of library trustees shall meet at least once a month, at such time and place as it may fix by resolution.

19641. Special meetings may be called at any time by three trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

19642. Three members constitute a quorum for the transaction of business.

19643. At its first meeting held after the general district election the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

19644. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees, it shall immediately cause to be made out and filed with the Department of Education at Sacramento a certificate showing that the library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

19645. The board of library trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, and protection of the library under its management, and all property belonging to it.

19646. The board of library trustees shall administer any trust declared or created for the library, and receive by gift, devise, or bequest, and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

19647. The board of library trustees shall prescribe the duties and

powers of the librarian, secretary, and other officers and employees of the library, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the board.

19648. The board of library trustees shall purchase necessary books, journals, publications, and other personal property.

19649. The board of library trustees shall also purchase such real property, and erect or rent and equip, such building or rooms, as in its judgment is necessary to properly carry out the provisions of this chapter.

19650. The board of library trustees may request the appropriate state officials to furnish the library with copies of any and all reports, laws, and other publications of the state not otherwise disposed of by law.

19651. The board of library trustees shall borrow books from, lend books to, and exchange books with other libraries. It shall allow nonresidents to borrow books upon such conditions as it may prescribe.

19652. The board of library trustees shall do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

19653. The board of library trustees shall file, through the librarian, on or before the last day in the month of August of each year, a report with the State Librarian at Sacramento giving the condition of the library and the number of volumes contained therein on the 30th day of June preceding. The report shall, in addition to other matters deemed expedient by the board of trustees or the librarian, contain such statistical and other information as is deemed desirable by the State Librarian. For this purpose the State Librarian may send to the several district librarians instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

19654. The board of library trustees shall designate the hours during which the library is open for the use of the public. All public libraries established under this chapter shall be open for the use of the public during every day in the year except on such legal holidays as may be determined by the board of library trustees.

19655. In any library district formed under the provisions of this chapter, which maintains a public library, or which has petitioned for and been granted permission to establish, and intends to maintain a public library in accordance with this chapter, the board of library trustees shall furnish to the board of supervisors of the county in which the library district is situated, each and every year, on or before the first day of September, an estimate of the cost of any or all of the following:

- (a) Leasing temporary quarters.
- (b) Purchasing a suitable lot.
- (c) Procuring plans and specifications and erecting a suitable building.

(d) Furnishing and equipping the building and fencing and ornamenting the grounds, for the accommodation of the public library.

(e) Conducting and maintaining the library for the ensuing fiscal year.

19656. The board of library trustees may, when in its judgment it is deemed advisable, and upon the petition of 50 or more taxpayers residing within the library district shall, call an election and submit to the electors of the library district the question of whether the bonds of the library district shall be issued and sold for any or all the purposes of this chapter.

19657. When the estimate has been submitted to the board of supervisors, the board of supervisors shall, at the time of levying county taxes, levy a special tax upon all of the taxable property within the limits of the library district, sufficient in amount to maintain the public library, or to purchase the site, erect and equip the building, improve the grounds or building, or for any or all of the purposes of this chapter. The taxes shall be computed, entered upon the tax roll, and collected in the same manner as other taxes are computed, entered, and collected.

19658. The revenue derived from the tax, together with all money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be paid into the county treasury, to the credit of the library fund of the district in which the tax is collected, subject only to the order of the library trustees of the district. If payment into the treasury is inconsistent with the terms or conditions of any gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

19659. Upon the receipt by the county auditor of an order of the library trustees of the district he shall issue his warrant upon the county treasurer for the amount stated in the order.

19660. When any warrant is presented to the treasurer for payment and it is not paid for want of funds the treasurer shall endorse thereon "not paid for want of funds" with the date of presentation and sign his name thereto and from that time the warrant bears interest at the rate of 6 percent per annum until it is paid or until funds are available for its payment and the county treasurer gives notice to the warrant holder that funds are available for payment. The giving of the notice is deemed complete upon deposit thereof in the United States mail in a sealed envelope addressed to the warrant holder at his address given by him at the time of presentation of the warrant to the treasurer, with postage thereon fully prepaid and registered.

19661. Every library established under this chapter shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and bylaws as may be made by the board of library trustees. For any violation

of the rules, regulations, or bylaws a person may be fined or excluded from the privileges of the library.

19662. Boards of library trustees and the boards of trustees of neighboring library districts, or the legislative bodies of neighboring municipalities, or boards of supervisors of the counties in which public libraries are situated, may contract to lend the books of the libraries to residents of the counties or neighboring municipalities, or library districts, upon a reasonable compensation to be paid by the counties, neighboring municipalities, or library districts.

19663. The title to all property acquired for the purposes of the libraries, when not inconsistent with the terms of its acquisition, or not otherwise designated, vests in the district in which libraries are, or are to be situated.

19664. Every library district shall be designated by the name and style of \_\_\_\_\_ Library District, (using the name of the district), of \_\_\_\_\_ County, (using the name of the county in which the district is situated). In that name the trustees may sue and be sued, and may hold and convey property for the use and benefit of the district. A number shall not be used as a part of the designation of any library district.

### Article 3. Claims

19690. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

### Article 4. Annual Election of Trustees

19700. (a) Except as otherwise provided in this article, the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 12 of the Elections Code) shall govern and control the conduct of elections pursuant to this chapter. Elections shall be held biennially in the district on the same day as the school district election as specified in Section 5000 in the odd-numbered years.

(b) The trustees shall hold office for the term of four years beginning on the first day of July next succeeding their appointment or election. In any existing district the term of office of the trustees expiring prior to the first election to be held in an odd-numbered year shall continue until their successors in office are duly elected in such election and enter upon their offices.

For purposes of implementing the changes in the dates of election and in the dates of the commencement and termination of the terms of office of the trustees effected by the Legislature at the 1973-74 Regular Session, no election for trustees shall be held in conjunction with the 1974 general election. For such purposes trustees whose terms are expiring in January 1975, shall continue to serve in the

offices involved until June 30, 1975, and trustees whose terms are expiring in January 1977, shall continue to serve in the offices involved until June 30, 1977. All of the offices that will expire shall be filled by election conducted pursuant to subdivision (a) in the year in which the office expires.

(c) The members of the first board of library trustees appointed or elected in a district shall, at their first meeting, so classify themselves by lot that their terms shall expire: two on the 30th day of June of the first odd-numbered calendar year next succeeding their appointment or election, and three on the 30th day of June of the second succeeding odd-numbered calendar year.

19701. The number of library trustees for any library district established under the provisions of this chapter is five.

19702. Every elector, resident of the library district, who is a qualified elector of the county, and who is registered in the district where the election is held at least 54 days before the election, may vote at the election.

#### Article 5. Bonds

19720. The board of trustees of any library district may, when in their judgment it is deemed advisable, and shall upon a petition of 50 or more taxpayers and residents of the library district, call an election and submit to the electors of the district the question of whether the bonds of the district shall be issued and sold for the purpose of raising money for any or all of the following:

- (a) The purchase of suitable lots.
- (b) Procuring plans and specifications and erecting a suitable building.
- (c) Furnishing and equipping the building, and fencing and ornamenting the grounds, for the accommodation of the public library.
- (d) Any or all of the purposes of this chapter.
- (e) Liquidating any indebtedness incurred for the purposes.
- (f) Refunding any outstanding valid indebtedness, evidenced by bonds or warrants of the district.

19721. The election shall be called by posting notices, signed by the board, in three of the most public places in the district, for not less than 20 days before the election, and by publishing the notice not less than once a week for three successive weeks in a newspaper published in the district if there is one, or if there is none, in a newspaper published in the county.

19722. The notice shall contain:

- (a) Time and place of holding the election.
- (b) The names of inspectors and judges to conduct the election.
- (c) The hours during the day in which the polls will be open.
- (d) The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding 40, the whole or any part of the bonds are to be run.

19723. The election shall be conducted in accordance with the provisions relating to the election of trustees, insofar as they are applicable to the election for bonds.

19724. Voting shall be by ballot, without reference to the general election law in regard to form of ballot, or manner of voting, except that the words to appear on the ballot shall be, "Bonds—Yes," and "Bonds—No." Persons voting at the bond election shall put a cross (+) upon their ballots, with pencil or ink, after the words, "Bonds—Yes," or "Bonds—No," as the case may be, to indicate whether they have voted for or against the issuance of the bonds. The ballot shall be handed by the elector voting to the inspector, who shall then, in his presence, deposit the ballot in the ballot box, and the judges shall enter the elector's name on poll list.

19725. On the seventh day after the election, at 8 o'clock p.m., the returns having been made to the board of trustees, the board shall meet and canvass the returns, and if it appears that more than one-half of the votes cast at the election are in favor of issuing the bonds, then the board shall cause an entry of the fact to be made upon its minutes and shall certify to the board of supervisors, all the proceedings had in the premises. Thereupon the board of supervisors shall issue the bonds of the district, to the number and amount provided in the proceedings, payable out of the building fund of the district, naming the district.

19726. The money shall be raised by taxation upon the taxable property in the district, for the redemption of the bonds and the payment of the interest thereon.

19727. The total amount of bonds issued shall not exceed 5 percent of the taxable property of the district, as shown by the last equalized assessment book of the county.

19728. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto, and shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 40 years from the date thereof.

19729. The bonds shall not bear a greater amount of interest than 6 percent, to be payable annually or semiannually. The bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof shall be deposited in the county treasury to the credit of the building fund of the library district, and shall be drawn out for the purposes for which the bonds were issued as other library moneys are drawn out.

19730. The board of supervisors, at the time of making the levy of taxes for county purposes, shall levy a tax for that year upon the taxable property in the district, at the equalized assessed value thereof for that year, for the interest and redemption of the bonds. The tax shall not be less than sufficient to pay the interest of the bonds for that year, and such portion of the principal as is to become due during the year. In any event the tax shall be high enough to raise, annually, for the first half of the term the bonds have to run,

a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay the annual interest and to pay, annually, a proportion of the principal of the bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to run.

19731. All money levied, when collected, shall be paid into the county treasury to the credit of the library district, and shall be used for the payment of principal and interest on the bonds, and for no other purpose. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor. The county auditor shall cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

19732. Whenever any bonds issued under this article remain unsold for the period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the board of trustees of the library district for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of the bonds, was embraced within the district for or on account of which the bonds were issued, may petition the board of supervisors to cause the unsold bonds to be withdrawn from market and canceled.

19733. Upon receiving the petition, signed by a majority of the members of the board of trustees, the supervisors shall fix a time for hearing the petition, which shall be not more than 30 days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published for 10 days prior to the day of hearing, in some newspaper published in the library district, if there is one, and if there is no newspaper published in the library district, then in a newspaper published at the county seat of the county in which the library district or part thereof is situated.

19734. At the time and place designated in the notice for hearing the petition, or at any subsequent time to which the hearing is postponed, the supervisors shall hear any reasons that are submitted for or against the granting of the petition, and if they deem it for the best interests of the library district that the unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that the unsold bonds be canceled. Thereupon the bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

#### CHAPTER 10. CORPORATIONS TO ADMINISTER LIBRARIES

19800. Three or more persons may incorporate pursuant to this chapter for the purpose of establishing a library, to be conducted without pecuniary profit. The articles of incorporation shall state that the corporation is formed under this chapter but otherwise shall

contain the statements required by Section 9200 of the Corporations Code.

19801. Any such corporation shall not issue capital stock and its business shall not be carried on for profit. It shall have the capacity and right to receive and take any gift, bequest, devise, or conveyance of property either as grantee for its own use or as trustee and to be or be made the beneficiary of a trust.

19802. The trustees or directors of the corporation shall compose its members and shall have control and management of its affairs and property. The trustees or directors shall elect officers of the corporation from their number, fill by election vacancies occurring in their own number by death, incapacity, retirement, or otherwise, subject to the approval of the Commissioner of Corporations, and may fix the charges to be paid by persons using the property and quarters of the corporation.

19803. Each corporation incorporated under this chapter shall have the powers granted by the provisions of the Corporations Code and other laws of the state relating to private corporations, which are not inconsistent with those granted by this chapter.

19804. The corporation may appoint such agents and officers as its business requires, which may be either persons or corporations, and may employ such persons as are necessary in the conduct of its affairs.

19805. The corporation may purchase, lease or otherwise acquire, hold, own and enjoy, sell, lease, mortgage and otherwise encumber, and dispose of any, all, and every kind of real or personal property, including stock in other corporations, subject to the terms and conditions of bequests, donations, and gifts whenever applicable.

19806. The corporation may also carry on any and all operations necessary or convenient in connection with the transaction of any of its business, make contracts, borrow money, issue bonds, debentures, promissory notes, or other obligations and secure the obligations.

19807. No such corporation shall sell, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it has first applied for and secured from the Commissioner of Corporations a permit authorizing it so to do, and has complied with all the terms and conditions of the Corporate Securities Law, Division 1 of Title 4 of the Corporations Code. All provisions of the Corporate Securities Law are applicable to and binding upon corporations incorporated under this chapter.

19808. The corporation shall within one month after filing articles of incorporation, adopt a code of bylaws for its government and management not inconsistent with the provisions of this chapter. The vote or written assent of a majority of the trustees or directors shall be necessary to adopt the bylaws. The provisions of Sections 500, 501, and 502 of the Corporations Code which are not inconsistent with the provisions of this chapter shall apply to the bylaws.

19809. The corporation may also provide in its bylaws for the following matters:

(a) The manner of removal of any one or more of its trustees or directors, and of filling all vacancies in the board of trustees or directors.

(b) The terms and conditions under which bequests, donations, and gifts will be accepted, and the manner in which they will be administered.

(c) The method of fixing charges for the use of the property of the corporation, and the uses to which the property may be put.

19810. The right of a corporation claiming to be organized and incorporated and carrying on its business under this chapter, to do and continue its business, may be inquired into by quo warranto proceedings at the suit of the Attorney General, and not otherwise.

19811. The articles of incorporation shall not be accepted for filing by the Secretary of State without the endorsement upon them of the approval of the Attorney General. Such approval shall be given where it appears to the Attorney General that it is sought to organize the proposed corporation in good faith, and shall be refused where it does not appear that it is sought to organize the proposed corporation in good faith.

## CHAPTER 11. MISCELLANEOUS PROVISIONS

### Article 1. Deposit of Newspapers in Libraries

19900. The board of supervisors of any county may authorize the county recorder to deposit with any free public library maintained at the county seat, or with the State Library, such newspaper files, or portions thereof, as may be in the custody of the recorder by virtue of Chapter 110 of the Statutes of 1862, relating to the purchase and preservation of newspapers, or by virtue of any other act.

19901. Before making the deposit, the board of supervisors shall obtain from the board of trustees or authorities in charge of the free public library, or the Department of Education, or the board of governors, as the case may be, an agreement that it will properly preserve and care for the newspaper files, and make them accessible to the public.

19902. The board of supervisors of any county may authorize the boards of trustees or other authorities in charge of any free public library with which newspaper files have been deposited in accordance with Section 19900 to deposit the newspaper files with the State Library.

### Article 2. Offenses Against Libraries

19910. Any person who maliciously cuts, tears, defaces, breaks, or injures any book, map, chart, picture, engraving, statue, coin, model, apparatus, or other work of literature, art, mechanics, or object of curiosity, deposited in any public library, gallery, museum, collection, fair, or exhibition, is guilty of a misdemeanor.

The parent or guardian of a minor who willfully and maliciously commits any act within the scope of this section shall be liable for all damages so caused by the minor.

19911. Any person who willfully detains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging to any public or incorporated library, reading room, museum, or other educational institution, for 30 days after notice in writing to return the article or property, given after the expiration of the time for which by the rules of the institution the article or property may be kept, is guilty of a misdemeanor.

The parent or guardian of a minor who willfully and maliciously commits any act within the scope of this section shall be liable for all damages so caused by the minor.

## PART 12. FOUNDATIONS AND STATE COMMITTEES AND COMMISSIONS

### CHAPTER 1. STATE COMMITTEES AND COMMISSIONS

#### Article 1. State Council of Educational Planning and Coordination

21000. There is in the state government a State Council of Educational Planning and Coordination consisting of nine members. The Superintendent of Public Instruction and the President of the University of California are ex officio members of the board.

Of the seven other members of the board, five shall be persons not engaged in any manner in the direction or supervision of education, not engaged, employed, or serving in any capacity in any body charged with the direction or supervision of education, and not engaged, employed, or serving in any capacity in any school, college, or university. Each of the appointed members of the board shall be appointed for a term of one year jointly by the State Board of Education and the Board of Regents of the University of California upon the joint nomination of the Superintendent of Public Instruction and the President of the University of California.

Thereafter their successors shall be chosen in like manner for a like term. Any vacancy shall be filled by appointment by the Superintendent of Public Instruction and the President of the University of California jointly. Any person appointed to fill a vacancy shall serve only for the balance of the unexpired term.

21001. The function of the State Council of Educational Planning and Coordination is to study problems affecting the relationships between the schools of the public school system and the University of California, and to make recommendations thereon jointly to the State Board of Education and the Regents of the University of California through the Superintendent of Public Instruction and the President of the University of California.

CHAPTER 2. FOUNDATIONS, TRUSTS, AND INSTITUTIONS OF ARTS  
AND SCIENCES

## Article 1. Foundations and Trusts

21100. Any person desiring in his lifetime to promote the public welfare by founding, endowing, and maintaining within this state a university, college, school, seminary of learning, mechanical institute, museum, botanic garden, public park, or gallery of art, or any or all thereof, may, for such purposes, by grant in writing convey to a trustee, or any number of trustees, named in the grant, and to their successors, any property, real or personal, belonging to him and situated within this state. If he is married and the property is community property, then both husband and wife shall join in the grant.

21101. The grantor may designate in the grant:

(a) The nature, object, and purposes of the institution to be founded, endowed, and maintained.

(b) The name by which it shall be known.

(c) The powers and duties of the trustees, and the manner in which they shall account, and to whom, if accounting is required. Such powers and duties shall not be exclusive of other powers and duties which may be necessary to enable the trustees to fully carry out the objects of the grant.

(d) The mode and manner, and by whom, the successors to the trustee or trustees named in the grant are to be appointed.

(e) Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe. Such rules shall, unless the grantor otherwise prescribes, be deemed advisory only, and shall not preclude the trustees from making such changes as new conditions may from time to time require.

(f) The place where and the time when the buildings necessary and proper for the institution shall be erected, and the character and extent thereof.

21102. The grantor may also provide for all other things necessary and proper to carry out the purposes of the grant, and especially may provide for the trades and professions which shall be taught in the institution, and the terms upon which deserving scholars of the public and private schools of the various counties of this state may be admitted to all the privileges of the institution, as a reward for meritorious conduct and good scholarship.

21103. The grantor may also provide for maintaining free scholarships for children of persons who have rendered service to or who have died in the service of the state and for maintaining free scholarships for children of mechanics, tradesmen, and laborers, who have died without leaving means sufficient to give their children a practical education, fitting them for the useful trades or arts.

21104. The grantor may also provide the terms and conditions upon which students in the public and private schools, and other

deserving persons, may, without cost to themselves, attend the lectures of any university established, and also the terms and conditions upon which the museums, art galleries, and conservatories of music, connected with any such institution, shall be open to all deserving persons without charge, and without their becoming students of the institution.

21105. The trustee or trustees named in the grant, and their successors, may, in the name of the institution, as designated in the grant, sue and defend, in relation to the trust property, and in relation to all matters affecting the institution.

21106. The grantor, by a provision in the grant, may elect, in relation to the property conveyed, and in relation to the erection, maintenance, and management of the institution, to perform, during his life, all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee or trustees.

21107. If the grantor is a married person, he may further provide that if his wife survives him, she, during her life, may, in relation to the property conveyed, and in relation to the election, maintenance, and management of the institution, perform all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee and trustees.

21108. In the cases referred to in Sections 21106 and 21107, the powers and duties conferred and imposed upon the trustee or trustees shall be exercised and performed by the grantor, or by his wife, during his or her life, as the case may be. Upon the death of the grantor, or his surviving wife, as the case may be, the powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

21109. The grantor may reserve the right to alter, amend, or modify the terms and conditions of the grant, and the trusts created, in respect to any of the matters mentioned or referred to in Sections 21101 to 21104, inclusive.

21110. The grantor may also reserve, during his life, the right of absolute dominion over the personal property conveyed, and also over the rents, issues, and profits of the real property conveyed, without liability to account therefor in any manner whatever, and without any liability over against his estate.

21111. If the grantor is married, he may further provide in the grant that if his wife survives him, she, during her life, may have the same absolute dominion, over the personal property, and the rents, issues, and profits, without liability to account therefor in any manner whatever, and without liability over against the estate of either the grantor or his wife.

21112. The founder or founders, surviving founder, or wife or widow of any founder, of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or any other institution, or any or all thereof, founded pursuant to this article, may, by an instrument in writing, resign, relinquish, and surrender all the rights, powers, privileges and duties reserved to or

vesting in him, over, in, or concerning any of the property granted or given to the institution, or over or concerning the institution founded. Thereupon all estates, rights, powers, privileges, trusts, and duties which would otherwise vest in or devolve upon the trustee or trustees of the trusts and estates created upon the death of the person resigning, relinquishing, and surrendering, by the terms of the grant and amendments thereof, and by the terms of any grants, gifts, bequests, and devices supplementary thereto, or of any confirmatory grants, shall immediately vest in and devolve upon the trustee or trustees. Nothing herein contained shall prevent the person resigning, relinquishing and surrendering the rights, powers, privileges, or duties from thereafter becoming and serving as one of the trustees, or from becoming and serving as an officer of any board of trustees.

21113. The grantor may provide in the grant that the trustees and their successors, may, in the name of the institution, become the custodian of the person of minors. When any such provision is made in a grant, the trustees and their successors may take the custody and control in the manner and for the time and in accordance with the provisions of Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

21114. The grant shall be executed, acknowledged, and recorded in the same manner as is provided by law for the execution, acknowledgment, and recording of grants of real property.

21115. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect the conveyance, or to affect the title to the property conveyed, or the right to the possession, or to the rents, issues, and profits thereof, unless the action is commenced within two years after the date of filing the grant for record. No defense shall be made to any suit, action, or proceeding commenced by the trustee or trustees named in the grant, or their successors, privies, or persons holding under them, which involves the legality of the grant, or affects the title to the property conveyed, or the right to the possession, or the rents, issues, and profits thereof, unless the defense is made in a suit, action, or proceeding commenced within two years after the grant has been filed for record.

21116. The property conveyed by the grant shall not, after a lapse of two years from the date of the filing for record of the grant, be subject to forced sale, under execution, or judicial proceedings of any kind, against the grantor or his privies, unless the action under which the execution is issued, or the proceedings under which the sale is ordered, has been commenced within two years after the grant has been filed for record. No property shall be subject to execution or forced sale under any judgment obtained in any proceedings instituted within two years, if there is other property of the grantor, subject to execution or forced sale sufficient to satisfy the judgment. Nothing in this section contained shall be construed to affect mechanics' or laborers' liens.

21117. Any person making the grant may, at any time thereafter, by last will or testament, devise and bequeath to the state all or any of the property, real and personal, mentioned in the grant, or in any supplemental grant, and the devise or bequest shall only take effect if, from any cause whatever, the grant is annulled or set aside, or the trusts therein declared for any reason fail. Such devise and bequest is permitted to be made by way of assurance that the wishes of the grantor shall be carried out, and in the faith that the state, if it succeeds to the property, or any part thereof, will, to the extent and value of the property, carry out, in respect to the objects and purposes of the grant, all the wishes and intentions of the grantor.

21118. No wish, direction, act, or condition expressed, made, or given by any grantor, under this article, as to religious instruction to be given in any school, college, seminary, mechanical institute, museum, or gallery of art, or in respect to the exercise of religious belief, on the part of any pupil of the school or institution of learning, shall be binding upon the state. The state shall not enforce, or permit to be enforced or carried out, any such wish, direction, act, or condition.

21119. The provisions of this article shall be liberally construed with a view to effect its objects and promote its purposes.

## Article 2. Institutions of Arts and Sciences

21140. Any person intending in his lifetime or by will or trust deed, to operate after his death, to found, maintain, and perpetuate in this state a public library, museum, gallery of art, or any or all thereof, for the diffusion of mechanical, scientific, artistic, and general knowledge, may for that purpose, convey in writing by words denoting a gift or grant to one or more trustees named in the gift or grant, and to their successors, any library or collection of books and works, for the public library, or any museum, or gallery of art in this state.

21141. The gift or grant may also express and shall be construed to be a conveyance of the future additions and accretions thereof.

21142. The grantor may also in like manner, convey by grant to the trustee or trustees any real property within this state belonging to him, which may be necessary or proper for the erection and maintenance of buildings suitable to the institution, and the buildings erected thereon, with grounds, conveniently adjacent thereto, and other lands, tenements, and hereditaments for the purpose of producing an income for the support and maintenance of the institutions and any collateral burdens which may be imposed by the terms of the foundation as part and parcel of the regulations for its conduct, and also personal property of all descriptions, which may subserve the purposes of the institution and maintenance of the library, museum, or gallery of art.

21143. Any contributions or gifts by any other person than the founder, of any property suitable to the general plan or support of

any institution mentioned in this article, shall immediately vest in the trustees, and become incorporated into and subject to the trust, and to all its terms and conditions, and be managed under the rules and regulations prescribed therefor.

21144. The person making the gift, grant, or conveyance, as founder may therein designate:

(a) The name by which the institution shall be known.

(b) Its nature, object, and purposes.

(c) The powers and duties of the trustees, which shall not be exclusive of other powers and duties that, in their judgment, may be necessary more effectually to carry out the purposes of the institution.

(d) The mode, manner, and by whom the successors to the trustees named in the gift or grant shall be appointed.

(e) Such rules and regulations for the management of the institution, and the furtherance of its purposes, as the grantor may elect to prescribe. Such rules and regulations shall, unless the grant shall otherwise prescribe, be deemed advisory only, and shall not preclude the trustees or their successors from making such changes as new conditions may, from time to time, require.

(f) The place or places where the necessary buildings shall be erected, and the general character thereof. The grantor may provide in the grant for all other things necessary or proper to carry out the purposes of the grant, or otherwise, by his last will or testament.

21145. The trustees named in the gift or grant, and their successors, may, in the name of the institution, sue and defend in relation to the trust property, and to all matters affecting the institution.

21146. By a provision in the gift or grant, the founder may elect, in respect to the personal and real property conveyed, and the additions and increase thereof, and in respect to the erection, maintenance, and management of any buildings auxiliary thereto, and in respect to any property connected with the institution, to reserve to himself a veto and right of annulment or modification of any act of the trustees.

21147. If he elects to veto, annul, or modify any act of the trustees, he shall, within 30 days after notice of the performance of the act, file in the office of the trustees, or deliver to their president or principal officer, a notice in writing, of the veto, annulment, or modification.

21148. Upon a like notice, in conformity with a provision in the gift or grant, he may elect to perform during his life all the powers which, by the terms of the grant, are vested in or enjoined upon the trustees, and their successors. Upon the death or disability to act of the founder and grantor, the powers and duties shall devolve upon, and be exercised by, the trustees, and their successors.

21149. The founder may also reserve the right to alter, amend, or modify, at any time during his life, or by his last will and testament, the terms and conditions of the grant, and the trust created in respect to the institution, its buildings, and the property conveyed.

21150. The founder may in the deed of trust name and describe the character and personality of any one or more of the immediate or future trustees, the librarian, and other officers, and name and impose any particular duty to be performed by any one or more trustees or other officers so described and characterized. He may declare and limit any compensation, and fix the character and method of the compensation he chooses to provide for the trustee or other officer whom the terms of his foundation may characterize, and upon whom specific or general duties are imposed.

21151. The gift or grant shall be executed, acknowledged, and recorded in the manner provided by law for the execution, acknowledgment, and recording of grants of real property.

21152. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect any gift, grant, or conveyance, or to affect the title to the property conveyed, or the right to the possession or to the rents, issues, and profits thereof, unless the action is commenced within two years after the date of the filing of the grant for record.

21153. Any founder, making a gift or grant for any of the purposes mentioned in this article, may, at any time thereafter, by last will or testament, devise or bequeath to the state all or any of the property, real and personal, mentioned in the gift or grant, or in any supplemental grant or gift, and the devise or bequest shall take effect if, from any cause whatever, the gift or grant is annulled or set aside, or the trusts therein declared for any reason fail. Such devise or bequest is suffered to be made by way of assurance that the intentions of the grantor shall be carried out, and in the faith that the state, if it succeeds to the property, or any part thereof, will, to the extent and value of the property carry out, in respect to the objects and purposes of the grant, all the wishes and intentions of the grantor.

21154. The provisions of this article shall be liberally construed, with a view to effect its objects and purposes.

### Article 3. Legal Validation Proceedings

21180. The trustee or trustees of any trust or trusts created for the founding, endowment, and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library, or any other institution, or any or all thereof, pursuant to Article 1 (commencing with Section 21100) and Article 2 (commencing with Section 21140) of this chapter, may commence a special proceeding to determine all questions of law and fact affecting the existence of, and the due and voluntary execution and delivery, and the terms, validity, and legal effect of the grant founding the institution, and of all amendments or attempted amendments to the grant, and of any supplemental grants or gifts, and of any confirmatory conveyances, of the founder or surviving founder, or wife or widow of the founder.

21181. The special proceeding may also be commenced to determine all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any gift or grant made in general terms for the benefit of the institution, or of any department of the institution, or of any gift or grant made in general terms for the benefit of the institution, or of any department of the institution, or of any gift or grant made in general terms for the benefit of the institution, or of any department of the institution, upon the trusts provided for in the grant founding the institution, and amendments thereof and grants, bequests, and devises supplementary thereto.

21182. The special proceeding may also be commenced to determine all questions bearing upon the passing to the trustee or trustees of the legal title to the properties, real and personal, conveyed or attempted to be conveyed, so far as the property or the proceeds thereof, or any property acquired in exchange therefor or with proceeds thereof, is described in the petition provided for in this article, and the interest or title of the trustee or trustees in or to any property described in the petition.

21183. The special proceeding may also be commenced to determine all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any grant or surrender by any founder, surviving founder, or wife or widow of any founder, to, or in favor of, the trustee or trustees, of any rights, powers, privileges, or duties reserved to or vesting in any such person over or concerning any property described in the petition, or over or concerning the institution, which would otherwise vest in or devolve upon the trustee or trustees upon the death of the person granting or surrendering the right, powers, privileges, or duties, and of any relinquishment or release by the founder, surviving founder, or wife or widow of any founder, of any other rights, powers, privileges, or duties reserved to or vesting in any such person.

21184. The trustee or trustees of any trust created pursuant to Article 1 (commencing with Section 21100) and Article 2 (commencing with Section 21140) of this chapter, in the name of the institution or institutions, or in the name of the trustee or trustees of the institution, or in the name of the board of trustees of the institution, may file, in the superior court of the county in which the lands described in the founding grant, or some portion thereof, are situated, or, if no real estate has been granted to the trustees, then in the county where the main part of the institution is situated, a petition in writing, signed by counsel for the trustee or trustees, or by counsel for a majority thereof.

21185. The petition shall contain copies of all grants, amendments, attempted amendments, supplemental grants, instruments of gift, confirmatory conveyances, and grants and instruments of surrender, relinquishment or release, so far as known to the trustee or trustees.

21186. The petition shall allege in general terms the due and voluntary execution and delivery, and the validity, of any and all instruments, copies of which are set out in the petition, and shall describe all property, real and personal, the legal title to which is held or claimed to be held by the trustee or trustees under or by virtue of any or all of the instruments, whether or not the property is the original property conveyed, the proceeds thereof, or reinvested proceeds.

21187. The petition shall allege in general terms the estate or interest which the trustee or trustees have or claim in or to the property described.

21188. The petition shall pray, in effect, that the court:

(a) Examine and determine all questions of law and fact affecting the due and voluntary execution and delivery, and the terms, validity, and legal effect of all the instruments, copies of which are set out in the petition.

(b) Examine and determine all questions bearing upon the passing to the trustee or trustees, of the legal title to all the properties, real and personal, conveyed or attempted to be conveyed, so far as the property or the proceeds thereof, or any property acquired in exchange therefor or with the proceeds thereof, is described in the petition.

(c) Examine and determine the interest or title of the trustee or trustees in or to the property.

(d) Establish and determine that the trustee or trustees are rightfully vested with the legal title thereto.

21189. The court or judge shall fix the time for hearing the petition, and shall order the clerk of the court to post in at least three public places in the county a notice of the filing of the petition, attached to a copy of the petition, and order a copy of the notice together with a copy of the petition to be personally served upon the founder, if living, and upon the surviving wife or widow of any founder, and upon any living grantor or donor of any other grant or gift set out in the petition, and may order such other or further notice to be given as the judge or court may deem proper. The notice shall be posted and served at least 10 days before the hearing.

21190. If the court or judge finds upon the hearing that due and proper notice has not been given as provided in Section 21189, it shall reset the hearing and cause due and proper notice to be given.

21191. The notice and petition shall be entitled substantially in the following form:

In the Superior Court of the \_\_\_\_\_ County of \_\_\_\_\_, State of California.

In the matter of the petition of \_\_\_\_\_ (giving the name or names in which the petition is brought) for the ascertainment of the existence and terms of, and for the determination of the validity and legal effect of grants or other instruments creating, changing, or affecting trusts and estates for the founding, endowment, and maintenance of \_\_\_\_\_ (naming the institution or institutions founded).

21192. The notice shall state the time and place fixed for the hearing of the petition and shall be addressed to the founder or founders, if living, and to the surviving wife or widow of any deceased founder, and the living grantor or donor of any other grant or gift set out in the petition, and in general terms to all other persons having or claiming any interest in, or rights, powers, or duties over or concerning the property described in the petition; and shall direct that they and each of them appear and answer the petition on or before the time set for the hearing. The notice shall also state that unless they so appear and demur or answer, the petitioners will apply to the court to grant the prayer of the petition, and that each person failing to so appear and answer, shall be deemed to admit as true all the material allegations of the petition.

21193. Any person required to be served, or any other person interested may waive notice by written waiver filed with the clerk of the court.

21194. Any person interested in the determination of any of the questions presented by the petition may demur to or answer the petition and may set up any new matter affecting the determination of the questions.

21195. Any allegation of the petition or answer may be made upon information and belief.

21196. The provisions of the Code of Civil Procedure respecting the demurrer and the answer to a verified complaint, shall be applicable to a demurrer or answer to the petition.

21197. The persons demurring to or answering the petition shall be the defendants to the special proceeding and the petitioners shall be the plaintiffs.

21198. Every material statement of the petition not specifically controverted by the answer shall, for the purposes of the special proceeding, be taken as true, and each person failing to answer the petition shall be deemed to admit as true all the material allegations of the petition.

21199. The rules of pleading and practice provided for by the Code of Civil Procedure, which are not inconsistent with this article, are applicable to the special proceeding provided for.

21200. Upon the hearing of the special proceeding, the court shall examine into and determine all questions of law and fact within the scope of the proceeding herein provided for, whether presented by the petition or answer, or by the proofs upon the hearing.

The court shall find and determine whether the notice of the filing of the petition has been duly given for the time and in the manner prescribed in this article.

21201. The costs of the special proceeding may be allowed and apportioned between all parties, in the discretion of the court.

21202. A certified copy of the judgment of the court in the special proceeding shall be recorded in the office of the recorder of the county in which the action is brought and in the office of the recorder

of every county in which any of the real property affected is situated.

21203. The judgment of the court in the special proceeding is determinative of the terms and trusts upon which any property thereafter given for the benefit of the institution, or any department thereof, is held by the trustee or trustees, unless otherwise provided by the grantor or donor.

## PART 13. STATE TEACHERS' RETIREMENT SYSTEM

### CHAPTER 1. GENERAL PROVISIONS

22000. This part shall be known and may be cited as the State Teachers' Retirement Law and may be known and cited as the E. Richard Barnes Act.

22001. In order to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools, the State Teachers' Retirement System is established. The system is a unit of the Agriculture and Services Agency.

22002. The Legislature recognizes that the assets of the State Teachers' Retirement System are insufficient to meet the obligations of that system already accrued or to accrue in the future in respect to service credited to members of that system prior to July 1, 1972. Therefore, the Legislature declares the following policies in respect to the financing of the State Teachers' Retirement System:

(a) Members shall be required to contribute a percentage of salaries earned.

(b) The employing agencies shall contribute a percentage of total salaries on which member contributions are based.

(c) The state shall contribute a sum certain for a given number of years for the purpose of payment of benefits.

22003. The costs of administration of the system shall be paid from the Teachers' Retirement Fund and such costs may not exceed the amount made available by law during any fiscal period.

22004. The right of a person to a pension, retirement allowance, return of contributions, any optional benefit, or any other right accrued or accruing to any person under this part is exempt from taxation, including any inheritance tax, whether state, county, municipal, or district.

22005. The right of a person to an annuity, a retirement salary, or a retirement allowance, to the return of contributions, the annuity, retirement salary, or retirement allowance itself, any optional benefit, any other right or benefit accrued or accruing to any person under this part, and the moneys in the fund created under this part are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except as specifically provided in this part.

22006. The obligations of any member of this system to this

system continue throughout his membership, and thereafter until all of the obligations of this system to or in respect to him have been discharged.

22007. For the purposes of payments into or out of the Teachers' Retirement Fund for adjustments of errors or omissions, the period of limitation of actions otherwise applicable shall not commence to run until the error or omission is discovered, as evidenced by the filing with this system of a claim or demand against this system or by the making of a claim or order for payment by this system against the former member, retirant, or his beneficiary, except that with respect to actions against a retirant, or beneficiary based upon erroneous payment from or to this system the period of limitation shall commence from the date of such payment.

22008. When the compensation of a member is a factor in any computation to be made under this part, including but not limited to computation of members' and school districts' or other employing agencies' contributions to the Teachers' Retirement Fund and excluding computation of compensation earnable during time prior to July 1, 1956, there shall be excluded from such computations any compensation based on overtime service performed by a member.

22009. The revision of the State Teachers' Retirement Law, including this section, enacted at the 1971 and 1972 Regular Sessions of the Legislature, shall not be construed to affect benefits of persons retired prior to July 1, 1972, or their beneficiaries, except as specifically provided.

22010. Notwithstanding any provision of this part to the contrary, the surviving spouse of a deceased member shall not be required to have been dependent upon or to have been receiving one-half of his support from the member at the time of the member's death in order to receive any benefits under this part.

22011. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

22012. The retirement board has the authority to negotiate, and enter into agreements with other states of the United States on the subject of the transfer of members' contributions and regular interest between the retirement systems of California and other states.

## CHAPTER 2. DEFINITIONS

22100. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

22101. "Accumulated retirement contributions" means the sum of all member contributions with credited interest and does not include accumulated annuity deposit contributions and accumulated tax-sheltered annuity contributions.

22102. "Accumulated annuity deposit contributions" means the

sum of all the annuity deposits standing to the credit of the member's account, together with credited interest.

22103. "Accumulated tax-sheltered annuity contributions" means the tax-sheltered contributions made by a member and standing to the credit of the member's account, together with credited interest.

22104. "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such tables and credited interest rates as are adopted by the board. The ages of members and beneficiaries shall be taken to the next lower completed quarter year in the determination of the actuarial equivalent.

22105. "Annual salary" means salaries earned during a school year excluding salaries for overtime service. For purposes of determining the amount of family allowances under Section 23804 and disability benefits under Section 24100, salary shall include any disability, survivor or family benefits that are part of a grant established and paid monthly to the teacher or his dependents prior to the teacher's death or disability and includes projected earned salary.

22106. "Annuity" means payments for life derived from the "accumulated annuity deposit contributions" or the "accumulated tax-sheltered annuity contributions" of a member.

22107. "Annuity deposit contributions" means additional contributions made by a member above those required for credited service for the purpose of providing additional retirement income.

22108. "Beneficiary" means any person receiving a survivor's allowance, death benefit, retirement allowance under option, or any other benefit. "Beneficiary" does not include a member, former member or retiree unless specifically named as a beneficiary or by operation of law. A corporation, trust, eleemosynary or parochial institution or public entity may only be designated as a beneficiary to receive death benefits under Sections 23100, 23800, 23803, and 23807 except as otherwise provided in this chapter.

22109. "Benefits" means any monthly payment due a retiree, disabled or other beneficiary, and includes lump-sum payments due on account of death.

22110. "Board" means the Teachers' Retirement Board.

22111. "California service" means service performed in California for which credit may be given.

22112. "Child" or "children" means:

(a) The dependent unmarried offspring of a member under 18 years of age, not adopted by a person other than the spouse and in the custody of or supported by the member on the date of the member's death or the effective date of disability allowance, or

(b) The unmarried child, under 18 years of age, adopted by the member and in the custody of or supported by the member on the effective date of disability allowance or death, or

(c) The dependent unmarried stepchild, under 18 years of age, in the custody of the member on the effective date of disability

allowance or death, or

(d) The dependent unmarried child described in subdivision (a), (b) or (c) above who is under the age of 22 and who is registered as a full-time student, as defined in Section 22128 on the effective date of disability allowance or death.

For those members receiving a disability allowance and who subsequently die, the maximum number of children for family benefits shall be those who were eligible on the effective date of disability allowance.

For purposes of Sections 23701, 23704 and 23705, "child" or "children" means any offspring or adopted children of the member, retirant or other beneficiary.

22113. "Compensation earnable" by a member means the compensation as determined by the board which would have been earned by the member if he were engaged in his duties on a full-time basis.

The computation for any absence of a member shall be based on the compensation earnable by him at the beginning of the absence and that for time prior to becoming a member shall be based on the compensation earnable by him in the position first held by him as a member.

For part-time service, "compensation earnable" means the compensation which would be earnable if the employment were on a full-time basis and the member worked full time.

22114. "Compensation" and "salary" mean remuneration in cash payable by the employer to the member, plus any payments in cash by the employer to one other than the member for the purpose of purchasing an annuity contract for the member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States, plus any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 of the Government Code or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

"Compensation" and "salary" do not mean and shall not include:

- (a) Job-related expenses.
- (b) Money paid to the employee for overtime service.
- (c) Compensatory damages and money paid to the member in excess of regular salary as a compromise settlement of a dispute arising from termination of a member's employment contract.
- (d) Lump-sum payments for accumulated sick leave or accumulated vacation leave.

(e) Money paid for summer school employment.

(f) Money paid as a bonus.

(g) Money not available for payment of salaries and which is applied by an employer for the purchase of annuity contracts or for other insurance programs including those which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States.

Any such moneys paid under subdivisions (a) through (g) shall not be included as a part of the member's compensation subject to contributions reported to this system.

22115. "County" includes "city and county."

22116. "County superintendent" means the county superintendent of schools.

22117. "Credited service" means service for which the required contributions have been paid.

22118. "Death benefits," means the benefits provided by Sections 23100, 23800 and 23803, and the family benefits provided in Section 23804.

The lump-sum "death benefit" provided in the old age, survivors and disability insurance program under the Federal Social Security Act, is considered as provided from the member's contributions, and shall not be offset against any payments from this system.

22119. "Dependent parent" means a natural parent of a member, or a parent who adopted the member prior to the earlier of the occurrence of the member's marriage or his attaining age 18, and who was receiving one-half of his or her support from the member at the time of the member's death.

22120. "Disabilitant" means a member of this system receiving a disability allowance. A member becomes a disabilitant on the date upon which the disability allowance is granted.

22121. "Disability allowance" means monthly payments by this system to a disabilitant.

22122. "Disability" or "disabled" means any medically determinable physical or mental impairment which can be expected to be of long, continued and indefinite duration which prevents a member from performing his usual duties for his employer; or the duties of a position of comparable level for which he is qualified by education, training and experience, and excludes any condition resulting from willful, self-inflicted injury.

22123. "Effective date" means the date stated in the application upon and continuously after which should death occur the member is considered a retirant or disabilitant.

22124. "Employer" or "employing agency" means the state or any agency or political subdivision thereof by whom a member is paid.

22125. "Employment" means employment in a position requiring membership in the system.

22126. "Family benefits" means the benefits provided for in Section 23804.

22127. "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive years during his membership in the system or time during which he was not a member but for which he has received credit under the system, except such time as was so credited pursuant to the provisions of Section 22718.

For the purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such breaks.

Time during which a member is in state service or in the employment of a local school district or of a county superintendent and is also a member of another retirement system to which the state, a county, or the university contributes shall not be considered to be an absence for the purposes of this section, and the determination of the final compensation of such a member shall take into consideration his compensation earnable while he was a member of such other system, providing retirement under this system is concurrent with the member's retirement under the other system.

The board may specify a different final compensation with respect to benefits based on part-time service performed prior to July 1, 1956, for which credit was given under this system under board rules in effect prior to such date.

22128. "Full-time student" means a surviving child in full-time attendance at an educational institution. The final determination whether a person qualifies as a full-time student shall be made by the board in light of standards and practices of the institution involved.

An individual shall be deemed to be a full-time student during any period of nonattendance where he has been in full-time attendance if such period of nonattendance is less than four consecutive calendar months and there is sufficient evidence to satisfy the retirement board that he intends to continue to be in full-time attendance at such educational institution immediately following such period of nonattendance. In any event a full-time student who is in full-time attendance at such educational institution immediately following such period of nonattendance shall continue to qualify as a full-time student both before and after such period of nonattendance.

An individual shall not qualify as a full-time student if his attendance at an educational institution is paid for and provided by his employer or is in the course of his on-the-job training, unless such on-the-job training is part of the regularly established school training for which he receives credit toward a diploma, certificate or graduation. An individual shall not qualify as a full-time student for any full-time course in which he may be enrolled, which is directly paid for and sponsored under the job corps of the Economic Opportunity Act or paid for or sponsored by any armed forces for this state or the United States of America.

An individual does not qualify as a full-time student during any period of nonattendance if the nonattendance is due to expulsion or suspension, notwithstanding such individual's intent to, or the fact he does, resume full-time attendance within four calendar months after the beginning of such period of nonattendance.

22129. "Final compensation" with respect to a member whose salary has been reduced by 5 or more percent after age 58 because of a reduction in school funds means the highest average annual

compensation earnable by the member during any three years during his membership in the system if the member elects to be subject to this section.

22130. "Educational institution" is any accredited public or private institution whose primary purpose is to provide classroom teaching and includes a high school, trade or vocational school or college, community college, or other college or university.

22131. "Improvement factor" means an increase of 2 percent in benefits for each year commencing on a September 1, following the first anniversary of the effective retirement date, or the date on which monthly benefits commenced to accrue to any beneficiary other than a retirant or such other periods as specifically stated in this part. Such factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the "improvement factor" up or down as economic conditions dictate. No adjustments of the improvement factor shall reduce the monthly retirement allowance or benefit below that which would be payable to the recipient under this part had this section not been enacted.

22132. "Local system" means any retirement system, exclusive of this system, in which public school teachers are members, operated by a city, city and county, county, or other political subdivision of the state.

22133. "Member" means any person included in the membership of the system.

22134. "Month" means 20 days or four weeks of five days each, including legal holidays, with respect to the computation and crediting of service.

"Month," for all other purposes, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any such corresponding day, and if not, through the last day of the succeeding calendar month.

22135. "Overtime" means the aggregate service performed as a member of the system in excess of the hours of work considered normal for employees on a full-time basis.

22136. "Other public systems" means the old age, survivors, disability and health insurance program provided by the Federal Social Security Act, the federal civil service retirement program, federal military disability, railroad retirement, a workman's compensation program, federal railroad retirement or any other public retirement system including any disability programs financed from public funds.

22137. "Parent" means a natural parent of a member or a parent who adopted the member prior to his attainment of 18 years of age or to the member's marriage, whichever occurs earlier.

22138. "Part-time basis with respect to service" means a basis of

service which is for less time than is required of persons serving on a full-time-day basis even though the employee may be subject to call at any time.

22139. "Pay period" means a pay period of not less than four weeks or more than one calendar month.

22140. "Payroll" includes registers, warrants, and any other documents upon which all persons receiving salary payments are listed.

22141. "Projected earned salary" means a 2-percent increase compounded annually applied to the highest annual salary earned by the member during any one of the three school years immediately preceding death, or disability and projected to the June 30th prior to age 60 from the July 1st of the year of death or disability.

22142. "Projected service" means the credited service plus the service which the member would have been credited with at age 60 had he continued to serve and receive credit at the same rate he was credited during the year covered by the earnings that were used in the calculation of the disability or family benefit.

22143. "Proof of death" means filing with the system a certified copy of the public record of death.

22144. "Public school" means any day or evening elementary school, and such day and evening secondary schools, community colleges, technical schools, kindergarten schools, and prekindergarten schools as may be established by the Legislature, or by municipal or district authority.

22145. "Regular interest" is interest which is compounded annually and is charged on payments made into the system by members and former members at a rate per annum adopted and revised from time to time by the board.

22146. "Credited interest" is that interest which is credited to members' accounts at a rate set annually by the board.

22147. "Return on investments" is those moneys received from the investments.

22148. "Retirement" means withdrawal from membership with a retirement allowance. A member of this system is retired with the mailing of the first warrant from this system.

22149. "Retirant" means a former member who has been retired for service or disability and is receiving a retirement allowance.

22150. "Retirement allowance" means the monthly payment from the system to a retirant or his beneficiary under an option.

22151. "Service" means service performed for compensation in a position requiring membership in the system except as provided in Sections 22700 to 22722.

22152. "Spouse" means a person who was married to the member at least 12 months prior to the death of the member unless a child is born to the union within the 12-month period or the surviving spouse is carrying the member's unborn child.

22153. "Tax-sheltered annuity" means payments for life derived from the accumulated tax-sheltered annuity contributions of a member.

22154. "Tax-sheltered annuity contributions" means contributions made by an employer for the purchase of an annuity contract for a member under an annuity plan which meets the requirements of Section 403 (b) of the Internal Revenue Code of the United States.

22155. "Survivor allowance" means the allowance provided for in Section 23804 as it read under the law in effect on June 30, 1972.,

22156. "System" means the "State Teachers' Retirement System."

22157. "Plan vesting" means the rights of the member upon completion of the minimum number of required years of credited service provided in the retirement plan to entitle the member or his beneficiary to a monthly retirement allowance, disability allowance, survivor, family or death benefit at a future date, prior to the completion of which the member upon resignation from service is entitled only to a refund of his accumulated contributions as provided in this part.

22158. "Provisional vesting" means the right of the member upon the completion of the minimum number of years of credited service and attainment of the minimum specified age after which the member may retire at any time and be entitled to receive a monthly retirement allowance.

22159. "Final vesting" means the right of a member or a beneficiary to receive a monthly retirement allowance, disability allowance, or a family benefit when the member has completed the minimum number of years of credited service, has attained the minimum specified age, has formally terminated his active service, has made application for retirement, or has been formally retired in accordance with Section 22148, after which the kind and amount of the retirement allowance is fixed and cannot thereafter be changed except as provided in this part.

### CHAPTER 3. RETIREMENT BOARD AND ADMINISTRATION

22200. The system is managed by the Teachers' Retirement Board. The members of the board are as follows:

- (a) The Superintendent of Public Instruction.
- (b) The State Controller.
- (c) The Director of Finance.
- (d) One member, who, at the time of appointment, is a member of the governing board of a school district or a community college district.
- (e) Three members of the State Teachers' Retirement System, at least two of whom at time of appointment are classroom teachers in grades kindergarten through 14.
- (f) One official of a life insurance company appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(g) One official of a bank appointed by the Governor for a term of four years, subject to confirmation by the Senate.

The members of the board provided by subdivisions (d) and (e) shall be appointed by the Governor for four-year terms from a list submitted by the Superintendent of Public Instruction.

The members of the board shall annually elect a chairman and vice chairman.

22201. The chief executive officer is the chief administrative officer of the system. The office shall be filled by appointment by the board and the appointee shall serve at the pleasure of the board.

The chief executive officer may administer oaths.

22202. The board shall set policy and make rules and it has the sole power and authority to hear and determine all facts pertaining to application for benefits under the system or any matters pertaining to the administration thereof. The board shall meet at least once every calendar quarter.

22203. The board may appoint a committee of two or more of its members to perform any act within the power of the board itself to perform. The board may also delegate authority to the chief executive officer to perform any such act. Except where the board, in delegating such authority, provides that the committee or the chief executive officer may act finally, all acts of the committee or the chief executive officer shall be reported to the board at its next regular meeting and shall be subject to review, ratification or reversal by the board.

22204. The chief executive officer has the authority and responsibility for the administration of the system pursuant to the policies and rules adopted by the board. He may delegate to his subordinates any act or duty unless the board by motion or resolution recorded in its minutes has required him to act personally.

22205. The board shall appoint such employees as are necessary to administer the system.

22206. The board may authorize the transfer and disbursement of funds from the Teachers' Retirement Fund for the purpose of carrying into effect the provisions of this chapter upon the signature of either or both its chairman and vice chairman or the chief executive officer or any employee of the system designated by the chief executive officer.

22207. Each member of the board may administer oaths and affirmations to witnesses and others transacting the business of the system.

22208. As often as the board determines necessary, it may audit or cause to be audited the records of any public agency.

22209. The board shall perform any other acts necessary for the administration of the system in carrying into effect the provisions of this part.

22210. Any rules and regulations adopted by the board for the purpose of the administration, and not inconsistent with the provisions of this part have the force and effect of law.

22211. The board shall regulate the duties of employing agencies and other public authorities, imposed upon them by this part, and shall require reports from the employing agencies and authorities as it deems advisable in connection with the performance of its duties.

22212. Reversal by the board of any act of the committee or the chief executive officer shall be effective on the date fixed by the board.

Payment of benefits prior to the board's action of reversal may not be affected by such action, except for such recovery of the amounts paid, from the beneficiary receiving the amounts, as the board may direct.

22213. The board shall subpoena witnesses and compel their attendance to testify before it.

22214. The board shall determine the service performed by members to be credited toward qualification for retirement, and shall fix retirement allowances and modify the allowances.

22215. The board shall adopt, upon the recommendation of the actuary of the system, such mortality and other tables and interest rates as are necessary to:

(a) Permit valuation of the assets and liabilities of the system.

(b) Make any determination or calculation necessary to carry out the provisions of this part.

22216. The board may take such action as it deems necessary to insure the continued right of retirants, disabilitants or beneficiaries of members or retirants, to receive monthly payments.

22217. The board may in its discretion hold a hearing for the purpose of determining any question presented to it involving any right, benefit or obligation of a person under this part.

When a hearing is held, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, relating to administrative adjudication and the board shall have all of the powers granted therein. The provisions of Section 11508 of the Government Code relating to the location of the hearing shall not apply however and the hearing shall be held at such time and place as may be determined by the board.

22218. The board shall file annually with the Governor and with the Senate and Assembly a report on all phases of its work which could affect the need for public contributions for costs of administration of the system, including the subjects of benefits, programs, practices, procedures, and any comments on trends and developments in the field of retirement.

Such report shall be filed with the Governor at least 30 days prior to the first day of each year and shall be filed with the Senate and Assembly within the first five days of each year.

22219. The board shall establish and maintain an adequate system of records and accounts following recognized accounting principles and controls.

22220. The board shall employ a certified public accountant or

public accountant, who is not in public employment, to audit the financial statements of the State Teachers' Retirement System. The costs of such audit shall be paid from the income of the Teachers' Retirement Fund. The audit shall be made annually commencing with the year ending June 30, 1974. The board shall file a copy of the audit report with the Governor, the Secretary of the Senate, and the Chief Clerk of the Assembly.

Such audits shall not be duplicated by the Department of Finance or the Auditor General. The system shall be exempt from a pro rata general administrative charge for auditing.

**22221.** Data filed by any member or beneficiary with the board is confidential. No official or employee who has access to the individual records shall divulge any information concerning such records to any person other than the member to whom the information relates or his authorized representative, the governing board of the school district or agency by which he is employed, or any state department or agency. They shall be used by the board for the sole purpose of carrying into effect the provisions of this part.

The information is not open to inspection by anyone except the board and its officers and employees, and any person authorized by the Legislature to make inspections.

**22222.** The board has exclusive control of the investment of the Teachers' Retirement Fund, including the purchase of securities and the sale thereof. Except as investment is otherwise authorized by law, investments of the retirement fund are subject to the terms, conditions, limitations and restrictions imposed by the laws of the state upon savings banks in the making of investments.

**22223.** Investments may also be made in bonds issued pursuant to the Improvement Bond Act of 1915. The amount of principal and interest payable in any year on the issue of such bonds may not exceed an amount equal to an ad valorem tax on all property taxable by the public agency which authorized the issuance of such bonds, at a rate not exceeding ten cents (\$.10) for each one hundred dollars (\$100) of assessed value, computed as of the date of such investment.

**22224.** The board has exclusive control of the administration of the funds. No transfers or disbursements of any amount from the funds shall be made except upon the authorization of the board for the purpose of carrying into effect the provisions of this part.

**22225.** Subject to the approval of the Department of Finance, the board may subscribe for membership for the State Teachers' Retirement System in the National Council on Teacher Retirement.

**22226.** The board shall keep in convenient form such data as is necessary for the actuarial valuation of the system.

In not to exceed six-year periods, the board shall make an actuarial investigation into the mortality, service, and other experience of members and beneficiaries and shall make an actuarial valuation of the assets and liabilities of the system. From time to time, the board shall determine the rates of return on investments of the several funds. Upon the basis of any or all of such investigation, valuation,

and determination, the board shall adopt for the system such rates of return on investments, rates of contribution to the Teachers' Retirement Fund, mortality, service, and other tables as are deemed necessary.

22227. No adjustment shall be included in new rates of annuity contribution adopted by the board on the basis of such investigation, valuation, and determination or because of amendment to the Teachers' Retirement Law, for time prior to the effective date of the adoption or amendment, as the case may be.

No action of the board, other than correction of errors in calculating the annuity at the time of retirement, shall change the annuity payable to a retirant retired prior to the date the action is taken.

22228. The board shall issue to each member, after the close of the school year, a statement of his individual account.

#### CHAPTER 4. ESTABLISHMENT AND CONTROL OF FUNDS

22300. There is in the State Treasury a special trust fund to be known as the Teachers' Retirement Fund. There shall be deposited in that fund the assets of the system and its predecessors, consisting of employee contributions, employer contributions, state contributions, appropriations made to it by the Legislature, income on investments, other interest income, income from fees and penalties, donations, legacies, bequests made to it and accepted by the board and any other amounts provided by this part.

Disbursement of money from the Teachers' Retirement Fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds.

22301. Return on investments shall be collected by the State Treasurer, and together with any other moneys received for the Teachers' Retirement Fund shall be immediately deposited to the credit of that fund and reported forthwith to the system. Money in whatever form received directly by the system shall be deposited forthwith in the State Treasury to the credit of that fund.

22302. The board shall determine annually the rate of credited interest to be credited to members' accumulated retirement contributions for service performed after June 30, 1935, the accumulated annuity deposit contributions and the accumulated tax-sheltered annuity contributions excluding all accumulated contributions while being paid as allowances under the provisions of Sections 23804 and 24100.

The board shall credit interest to all other accumulated reserves at the actuarially assumed interest rate.

22303. Earned interest not credited to accounts and other income shall be used to provide the benefits under this part.

22304. The board may apply to reduce the book value of securities purchased, all or part of the excess of the proceeds of the sale or redemption prior to maturity of securities over the book value

of the securities sold or redeemed provided the purchase of securities is made with such proceeds and provided that the terms of both securities from the date of sale, redemption, or purchase, as the case may be, to the respective dates of maturity, do not differ by more than five years. All such applications of excess of sales or redemption proceeds, even with greater difference in terms, heretofore made by the board are hereby validated and confirmed.

22305. In addition to such other investments as are authorized by this chapter, the board may in its discretion invest the assets of the retirement fund in an amount, determined on the basis of cost, not to exceed 10 percent of the assets in the first two years after the effective date of this section, not to exceed 15 percent during the third year after the effective date of this section, and not to exceed 25 percent thereafter, in common stock or shares, and not to exceed 2 percent of the assets in the first year after the effective date of this section, not to exceed 3 percent during the second year after the effective date of this section, and not to exceed 5 percent thereafter, in preferred stock or shares, of corporations created or existing under the laws of the United States, or any state, district, or territory thereof; provided that

(a) Such stock is registered on a national securities exchange, as provided in the "Securities Exchange Act of 1934" as amended. Such registration shall not be required with respect to the following stocks:

(1) The common stock of a bank which is a member of the Federal Deposit Insurance Corporation or a bank holding company whose subsidiary or subsidiaries is such a member, and has capital funds represented by capital, surplus and undivided profits of at least fifty million dollars (\$50,000,000);

(2) The common stock of an insurance company or an insurance holding company which has capital funds, represented by capital, special surplus funds and unassigned surplus of at least fifty million dollars (\$50,000,000);

(3) Any preferred stock.

(b) Such corporation has total assets of at least one hundred million dollars (\$100,000,000);

(c) Bonds of such a corporation, if any are outstanding, qualify for investment of the retirement fund and there are no arrears of dividend payments on its preferred stock;

(d) Such corporation, or such corporation in combination with its predecessor corporation, has paid a cash dividend on its common stock in at least 8 of the 10 years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation, or such corporation in combination with its predecessor corporation, for the whole of such period have been equal to the amount of such dividends paid, and such corporation, or such corporation in combination with its predecessor corporation, has paid a cash dividend in each of the last three years earned on an aggregate basis;

(e) Such investment in any one company may not exceed 5

percent of the common shares outstanding; and

(f) No single common stock investment, based on cost, may exceed 2 percent of the assets of the fund.

22306. The board may also invest in any stocks or shares of a diversified management investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars (\$50,000,000); except that the total investment in such stocks and shares, together with stocks and shares of all other corporations, may not exceed 25 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

22307. The board shall retain investment counsel or trust companies or trust departments of banks to advise the board in connection with its equity investments.

22308. The annual report of the board required under Section 22218 of this part shall include a description of all securities held and a comprehensive report of transactions involving the investment of the retirement fund similar to that required of a life insurance company licensed to do business in California.

In the matter of stock exchange commission fees and other fees paid to persons not employed by the state for services in connection with investments under this chapter, the names of those persons to whom such fees are paid and the amounts paid shall be clearly identified in the report.

#### CHAPTER 5. INFORMATION ON STATUS

22400. Each member and beneficiary shall furnish to the board such information affecting his status as a member or beneficiary of the system, as the board requires.

22401. Each member shall file a statement with the board, at the option of, and upon the form furnished by, the board, giving:

(a) His date of birth.

(b) All service previously performed by him in a position requiring membership in the system or its predecessors.

(c) The beneficiaries under the system to receive any benefits, payable upon the death of the member or beneficiary.

22402. Each county superintendent shall give immediate notice in writing to the board of the employment, death, resignation, or discharge of any person employed in a position requiring membership in the system, by the county or by a school district in the county.

Every other employing agency shall give similar notice with respect to each person employed by it in a position requiring membership in the system.

22403. The county superintendent and other employing agencies shall furnish such further information concerning any member or beneficiary as the board may require.

22404. The county superintendent or other employing agency shall withhold the salary of any member who fails to file information

required by the board in the administration of the system, or to pay amounts due from the members to the system.

The salary shall be withheld by the county superintendent or employing agency upon his own knowledge, if any, of the failure or upon notice from the board of the failure of the teacher to file or pay.

The salary shall be withheld and not released until notice is given by the board to the county superintendent or employing agency, or until the county superintendent or agency knows otherwise, that the information has been filed or the payment has been made.

## CHAPTER 6. MEMBERSHIP

22500. All persons who were members of the California State Teachers' Retirement System on June 30, 1944, are members of the system.

22501. All teachers employed in the public schools of this state are members of the system unless excluded from membership under Chapter 7 (commencing with Section 22600) of this part.

22502. Certificated librarians in elementary, secondary schools, or community colleges, or persons who serve partly as librarians and partly as teachers, are members of the system.

22503. All other employees in the public schools of this state who hold valid and unrevoked credentials issued by the State Board of Education, the Board of Governors of the California Community Colleges, or the Commission for Teacher Preparation and Licensing, and who are employed for at least 50 percent of each school month in work authorized by their credentials, are members of the system.

22505. Persons employed in the public schools or in county superintendents' offices of this state to perform duties usually performed by counselors, coordinators, and research directors, are members of the system.

22506. Superintendents, their deputies, and certificated employees under the direction of county superintendents are members of the system.

22507. Any person who has been a member for 30 years by reason of any previous employment as provided by this part and who leaves such employment to accept an exempt position in the executive or legislative branch of state government is a member of the system while he occupies such an exempt position unless he elects not to be a member by a writing filed in the office of the board within 90 days after employment in such exempt position.

22508. If a member is retired, or if his contributions are refunded to him upon termination of service, he shall cease to be a member.

For the purposes of this section, deposit in the United States mail of a warrant drawn in favor of a member, as refund of his contribution, and addressed to the latest address of the member on file in the office of this system, constitutes payment to the member of the amount for which the warrant is drawn.

Should a person to whom such warrant is mailed return the

warrant to the system's office for cancellation within 30 days from date of mailing of warrant, the board shall cancel the warrant and reinstate the person to membership restoring to him all the rights and privileges of membership which he had at the time of the cessation of membership.

22509. Members who on January 1, 1976, are in state service positions according to Section 22509 as it read on December 31, 1975, or who are employees of the Trustees of the California State University and Colleges, may elect in writing prior to July 1, 1976, not to continue as members of this system and to transfer membership to the Public Employees' Retirement System. Failure to execute and file the election which must be received in the office of this system by the close of business on June 30, 1976 shall be deemed a decision to remain as a member of this system.

22510. Members eligible to elect under Section 22509 and who elect to retain membership in this system shall be eligible only for those benefits available for all other members of this system, and not eligible for the benefits of the Berryhill Total Compensation Act, as amended, except for the reduced hospitalization insurance premiums. These members shall not be considered eligible for any additional benefits that may accrue to other state employees.

22511. If a member elects membership in the Public Employees' Retirement System under Section 22509, this election shall not be counted as a break in service if employment is continuous.

22512. Members who elect membership in the Public Employees' Retirement System and have achieved planned vesting according to Section 22157 of the Education Code shall retain the vested rights to survivor and disability benefits under this system until they qualify for the similar benefits in the Public Employees' Retirement System.

22513. Persons who have not achieved planned vesting shall qualify for eligibility for benefits under this system when total service under both systems equals the minimum required under Sections 23800, 23804, and 24101. These persons shall retain vested rights to survivor and disability benefits until they qualify for the similar benefits in the Public Employees' Retirement System.

## CHAPTER 7. EXCLUSIONS

22600. Persons employed in a position requiring membership in this system, but who are members of a local system or a county retirement system are excluded from membership in the system. A person so excluded shall retain the right to receive a retirement allowance for nonlocal service which is creditable in the system unless he withdraws his contributions therefor.

22601. Persons serving as exchange teachers or sojourn teachers from outside of this state are excluded from membership in the system.

22602. Persons employed on a substitute basis, who are not already members when they become employed and who perform

less than 100 complete days of service during the school year are excluded from membership in the system.

If, at the end of a pay period, a substitute teacher has performed 100 or more complete days of substitute service in that school year and subsequently performs one or more complete days of such service in that school year, he shall become a member on the first day of the pay period during which such additional service was performed.

**22603.** Persons not already members who are employed on a part-time basis and who will perform less than 60 hours of service per pay period, or persons who will serve less than 10 days per pay period on a daily basis are excluded from membership in the system. Members who will be employed on a part-time basis and will perform less than 60 hours of service per pay period or will serve less than 10 days per pay period on a daily basis may terminate their membership.

**22603.1.** Persons excluded from membership in Sections 22602 and 22603 may elect membership in the system at any time while employed in a substitute or part-time position which does not qualify for membership in this system. The election is irrevocable, shall be in writing, and shall be filed in the office of this system prior to submission of contributions.

**22603.2.** Persons who have been excluded from membership under Section 22602 or 22603 after January 1, 1976, and did not elect membership under Section 22603.1 and who subsequently become members of the system shall receive credit for the service performed while so excluded provided they elect to pay, and pay prior to retirement or payment of a disability allowance, whichever occurs first, and in a manner provided by the board, contributions equal to 16 percent of the salary earned for such service with regular interest.

**22603.3.** The intent of this section is to ensure that all necessary employer and employee contributions are made to the system for excluded service when a member elects to receive credit for that service.

Notwithstanding any other provisions in this chapter, persons who have been excluded from membership under Section 22602, 22603, 22604, or 22605, and school nurses excluded under Section 13968, who subsequently become members shall receive credit for the service performed while so excluded provided they elect to pay, and pay, prior to retirement or payment of a disability allowance, whichever occurs first, and in a manner provided by the board, all employer and employee contributions with respect to such service at the rate in effect on the date of election and the highest compensation earnable in any one of the three years prior to election.

Such contributions shall be equal to the rate of employer and employee contributions in effect upon the date of election.

Members may elect to pay for the excluded service as provided in Section 22813 as it read on December 30, 1975 until December 30, 1977.

22604. Persons not already members who are employed as instructors of adult education classes which have a duration of less than one school semester, or less than one school quarter of 12 weeks if the district operates its adult education program on that basis are excluded from membership in the system.

22605. Persons not already members who are employed as part-time teachers and who are concurrently employed in full-time positions as members of another retirement system, or a system administered and supported by the United States government, supported wholly or in part by public funds are excluded from membership in the system.

22606. Persons not already members who are employed for less than full time in positions requiring health and development credentials, a standard credential in designated services for health, or a designated services credential with a specialization in health are excluded from membership in the system.

The provisions of this section shall not apply to nurses employed in schools for at least 50 percent of a pay period.

22607. For the purposes of this chapter, a pay period may not be less than four weeks or more than one calendar month.

22609. A person employed as a teacher-assistant under the provisions of Section 44926 is excluded from membership in the system and the Public Employees' Retirement System.

22610. Nothing in this chapter shall be construed or applied to exclude from membership in this system any member who accepts a position requiring membership in this system in which position he has the right to elect membership in this or another retirement system and who elects membership in the other retirement system, or who enters a position which does not require membership in this system, but time served in which is included in this part.

Time served after becoming a member of the other system shall not be credited to the member under this system, nor shall contributions or benefits under this system be based upon such time or the salary received by the member during such time, except as provided in the definition of "final compensation" contained in Section 22127.

## CHAPTER 8. COMPUTATIONS OF ALLOWABLE SERVICE CREDIT

22700. This chapter governs the computation of service to be credited to a member for the purpose of determining whether the member qualifies for retirement, the amount of contributions required of the member, and the amount of benefits paid to a retiree.

22701. Claims for creditable service shall be corroborated by a statement from the superintendent of schools or custodian of records of the employing agency or public school where the service was performed.

Claims for creditable service performed outside the United States

or in federal schools within the United States shall be corroborated by a statement from the custodian of records.

When the official records of the service have been destroyed, the claim may be corroborated by one or more affidavits of knowledge of the service, preferably by persons who served with the member at the time the service was performed.

22702. Service performed prior to July 1, 1972, shall be credited according to the provisions of the law in effect at the time service was performed.

Service performed on or after July 1, 1972, by a member shall be credited in the proportion the compensation paid bears to the compensation the member would have received if he had been employed on a full-time day basis in the particular position in which he is employed throughout the school term, school year, or for a period of service at least the equivalent to a school term.

22703. Persons employed on a part-time basis, including persons employed in night schools and adult education programs, shall receive credit for time served in the proportion that the salary earned bears to the salary which would have been earned if employed full time. When a person is employed on an hourly or daily basis, full-time employment shall be considered as one hundred seventy-five (175) days or one thousand fifty (1,050) hours if the service is confined to a school term, or two hundred sixty (260) days or one thousand five hundred sixty (1,560) hours if the service extends for a full school year. The board shall make equitable adjustments for service which extends for a period greater than a school term but less than a school year.

22704. A member shall receive credit for service performed in a position prior to the date the position was made eligible for membership in this system or its predecessors.

22705. A member shall receive credit for time during which he is prevented from performing service in a position requiring membership, by act of God, or by reason of the closing of a school by any duly authorized officer or body. If by reason of a member's Japanese ancestry, he was required by the Wartime Civil Control Administration to leave his teaching position in California and returned prior to July 1, 1972, to a position requiring membership in the State Teachers Retirement System, he shall be given by the system four years of service credit in the system.

22706. A member shall receive credit for service performed in teaching positions in publicly supported and publicly administered universities and colleges in this state provided he does not have credited service therefor in any other retirement system.

22707. A member may receive credit for time served in certificated teaching positions in job corps centers administered by the United States government in this state providing education programs authorized by the State Department of Education in lieu of California public school programs.

A member may elect to receive job corps credit if he was

employed in a position requiring membership in the system within one year prior to entering such service, and returns to position requiring membership in the system within six months following the date of termination of service in the job corps. In no event shall a member receive credit for more than two years of job corps service nor shall a member receive credit for such service if he receives retirement allowance for such service from another retirement system.

A member who receives credit for job corps service shall pay employer and employee contributions plus regular interest in accordance with Section 22716. These contributions shall be based upon the full-time compensation the employee receives at the time the election is made to receive credit under the provisions of this section.

22708. A member shall receive credit for time served as an exchange teacher in any location.

22709. Service shall be computed by school years and not by calendar years, portions of years served being accumulated and counted as service. All of the service performed during any one school year in a position requiring membership in this system shall not count for more than one year, and the service credited under this system to any member as performed during any school year, shall not exceed the fraction of a year which makes one year of service, when added to the service credited to such member under the Public Employees' Retirement System, the Retiring Annuities System of the University of California, or any locally administered retirement system in California as performed during such year.

In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits which he would have received for that service under the provisions of this part as they existed on June 30, 1956. The provisions of this paragraph do not apply to service which is credited in the San Francisco City and County Employees Retirement System.

22710. No time shall be included for which a member is entitled to receive a pension in a lump sum or installment payments, for other than naval or military service from any source other than this system, or under the American Gratuity Act No. 4151 relating to service in the Philippine Islands under which 15 or more years of creditable service has accrued, or a local retirement system. If a retirant becomes entitled to such a pension, his retirement allowance shall be reduced thereafter to exclude the time upon which the pension is based, without other change in his retirement status.

22711. No time shall be included during which a person is a retirant or receiving disability allowance from this system.

22712. For the purposes of this chapter, war with a foreign power exists: (a) whenever Congress has declared war and peace has not been formally restored; (b) whenever the United States is engaged in active military operations against any foreign power, whether or

not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

22713. A member may elect to receive credit for time during which he serves in the active military service of the United States or of this state including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full-time paid service of the American Red Cross performed prior to September 10, 1957, during war with any foreign power or during other national emergency, or in time of peace if he is drafted for such service by the United States government, if he was employed in a position requiring membership, or in a position time served in which is included in this part, within one year prior to entering such service.

Time during which a member for other cause is absent without compensation, on leave or otherwise, shall not be included.

Time included under this section shall be considered as served in the state in which the member was last employed before entering such service.

22714. A member who voluntarily requests or agrees to an extension of his original term of enlistment, service, or tour of duty shall not receive credit for time during which he serves in such military service and which is after January 1, 1958, or after the expiration of six months following the date of termination of such original term of enlistment, service, or tour of duty, whichever is later. In no event shall a member receive credit for more than four years of such military service performed after July 1, 1968.

22715. A member shall receive credit for time during which he is excluded from membership because of membership in any other retirement system and during which he serves in a position requiring membership in this system or its predecessors, if he subsequently ceases to be a member of, and ceases to be entitled to benefits from, the other retirement system and becomes a member of this system.

Such credit shall not be given if the member may redeposit withdrawn contributions and subsequently be eligible for any benefits in any other retirement system.

22716. Time during which a member is excused from performance of his duties, such as but not limited to, sick leave, holidays, or vacation, whether or not he is required to perform any portion of such duties during such time, and for which he receives compensation, including disability from any insurance carrier of his employer, under the Labor Code on account of industrial injury or disease, in an amount less than the full compensation earnable by him while performing his duties when not so excused, shall be credited as service in the proportion that the compensation paid to the member bears to the full compensation which would be earnable by him while performing his duties on a full-time basis. For purposes of this chapter, any certificated employee on a sabbatical leave as

provided under Section 44966 receives full-time service credit for time spent on such leave, after July 1, 1956, providing the member pays to the system additional contributions based on the compensation, which is the difference between compensation earned and the compensation earnable during the period of sabbatical leave, in the amount of:

(a) Eight percent of such compensation as employer and state cost of granting service credit, and

(b) The member's regular contribution rate as applied to such compensation. Regular interest shall be due on all contributions required under this section from the end of the school year during which the sabbatical leave was taken until date of payment of such contributions.

The employing school district may pay the amount required as employer and state costs in subdivision (a).

22717. Except as otherwise specifically provided in this chapter no member shall receive credit for service outside this state.

22718. Every person who was a member or retirant of the California State Teachers' Retirement System on June 30, 1944, may receive credit for time served outside this state prior to July 1, 1944, as follows:

(a) Credit for time served in a position which in this state requires membership, in other states of the United States and its territories and possessions and in Canada.

(b) Credit for time served in teaching positions in publicly supported and publicly administered universities or colleges in the United States and its territories and possessions and in Canada.

(c) Credit for time served in teaching positions in schools supported and administered by the United States government.

(d) Credit for time served as a physiotherapist during World War I in the Medical Department of the United States Army; provided, he was employed in a position requiring membership in this system within one year prior to entering such service.

(e) Credit for time served in publicly supported residential schools for the deaf and blind outside this state and credit for time served in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

22719. A member shall be credited at his retirement with credit for each day of accumulated and unused leave of absence for illness or injury for which full salary is allowed to which the member was entitled on the final day he rendered service to the school district or other employing agency by which he was last employed in a position requiring membership in this system. The number of years of service credit to be granted shall be the product of a factor and the number of days of accumulated and unused leave of absence for illness or injury. The factor shall be determined by dividing the number 1 by the number of days of service required by the member's contract of

employment during his final year of service in a position requiring membership in this system. When the member has made application for retirement pursuant to Section 23900, the school district or other employing agency shall certify to the Teachers' Retirement Board the number of days of accumulated and unused leave of absence for illness or injury to which the employee is entitled on his final day of employment.

22720. The employing school district or other employing agency shall pay the present value of the service credit awarded in Section 22719 to the Teachers' Retirement Fund. The present value shall be determined by the board, an approximate average figure based upon broad salary ranges and the experience in the prior school year, including any projected increases for the current year. The board shall determine the present value annually and publish same as a rule of the board.

This amount is due and payable to the Teachers' Retirement Fund within 30 days following the effective date of the member's retirement, and is delinquent thereafter. The board may assess a penalty on delinquent payments in accordance with the provisions affecting payment of employee and employer contributions.

22721. The benefits accorded pursuant to Section 22719 shall not be used in the calculation of final compensation under this system.

22722. Except as provided in Section 22719, no credit toward retirement shall be granted for any payment made for accumulated sick leave upon transfer from one district to another, upon termination of service, upon death, or retirement. No contributions shall be taken from such payments. Payments for accumulated sick leave shall not be included in any payroll warrant paid the teacher but shall be paid by separate warrant. Such payments shall not be included in the computation for the purposes of determining "final compensation". No continued leave of absence shall be granted a member solely for the purpose of allowing the member to receive compensation for accumulated sick leave for which the member could otherwise have elected to receive payment.

22723. A member shall receive full credit for time on and after July 1, 1972, during which he serves as an elected officer of any local, state or national educational organization provided that:

(a) The member is excused by his employing agency from performing the duties requiring membership in this system.

(b) The member makes the member contribution prescribed by Section 22804 with respect to any salary actually received from the employing agency and in addition pays monthly to the employing agency for transmission to the Teachers' Retirement Fund an amount equivalent to 16 percent of the salary that he would have earned, including any increases and other adjustments, had he not been excused from performance of his duties and pays regular interest on any contributions paid for time prior to the effective date of this section.

(c) The member is actively engaged as an elected and

compensated officer of the educational organization during the period of absence.

(d) The member was employed in a position requiring membership in this system in the month prior to commencement of the absence from regular duties and returns to a position requiring membership in this system or retires at the conclusion of the term of office.

(e) The maximum amount of service credit pursuant to this section does not exceed four calendar years.

(f) In the event that service pursuant to this section is included in computing final compensation for purposes of retirement, such final compensation shall be based upon the salary that the member would have received had he remained in a position requiring membership in this system.

22724. Notwithstanding any other provision of this chapter, a member employed on a part-time basis shall receive the credit he would receive if he was employed on a full-time basis and have his retirement allowance, as well as any other benefits that he is entitled to under this chapter, based upon the salary that he would have received if employed on a full-time basis, if he and his employer both elect to contribute to the Teachers' Retirement Fund the amount that would have been contributed if the member was employed on a full-time basis. This section shall be applicable only to members who have met the criteria provided in Sections 44922, 87483 or 89516 and are not older than 65 years and is limited to a period of five years of such part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

## CHAPTER 9. CONTRIBUTIONS

22800. Contributions made by a member shall be credited to his individual account by the board.

22800.5. Acceptance of employment in a position requiring membership in the system is consent to have deductions from salary taken for the system.

22801. All members who enter the system on or after January 1, 1975, shall submit to the system proof of their date of birth after they attain five or more years of credited service. This proof shall meet the standards of the administrative procedure to establish record of birth, except for military records, as prescribed by the Department of Health.

Members of the system prior to January 1, 1975, shall not be required to furnish proof of date of birth if the birth dates in their retirement records have been consistent during the period of membership unless at time of retirement they elect an optional form of retirement when proof of date of birth of both member and beneficiary is required.

Persons required to furnish proof of date of birth because of a

discrepancy in date in the retirement record shall not be paid any allowance from the system until such proof has been received and accepted by the system.

22802. Any person to whom service performed outside of the state after January 1, 1914, is credited and any person who has claimed exemption from the provisions of the system or its predecessor or who is excluded from the system because of being a member of another retirement system while serving in a position requiring membership in this system or its predecessor, and who later becomes subject to its provisions may pay, in addition to the sum due under Section 22805 for each year of credited service performed prior to July 1, 1944, either outside the state or while exempt or while a member of any other system, regular interest on the amount which would have been contributed had he been a member of the system when the service was performed. Regular interest shall begin to accrue on the first day of July next following the end of the school year in which the service was performed.

22803. A member electing to pay contributions for nonmembership service shall pay for all such service.

22804. Each member of this system shall contribute to the Teachers' Retirement Fund an amount equivalent to 8 percent of salary earned, excluding salaries for overtime service.

22805. Members' accumulated retirement contributions and those other contributions required for credited service shall be in the amounts required based on rates of contribution applicable for the years included in such period.

22806. Accumulated contributions credited to a member whose date of birth is changed in the records of the system shall be adjusted to the corrected date by refund to the member or payment by the member, as the case may be.

22807. If at the time of retirement, disability or death, there are contributions remaining to the credit of the member which were made with respect to time on the basis of which the member will not be entitled to receive a benefit, the board shall refund to the member accumulated contributions as it may allocate to such time.

22808. If a member of a local retirement system transfers to the State Teachers' Retirement System as a member of the local system, and has accumulated contributions in his account in excess of those required by the State Teachers' Retirement System, the excess amount shall be refunded unless the individual makes application to have the excess amount credited to his (a) individual account in the Annuity Deposit Fund, or (b) member's account established under Chapter 91 of the Statutes of 1972.

Such application shall be submitted to the Los Angeles City Unified School District within 30 days of notification of the amount of excess contributions.

22809. Subject to rules prescribed by the board, any member may elect to make annuity deposits for the purpose of providing additional retirement income.

Contributions to the Annuity Deposit Fund may be remitted directly to the system by the member.

A member may at any time cancel such election and later again elect to make contributions to the Annuity Deposit Fund. Annuity Deposit Fund contributions made after June 30, 1956, may be withdrawn only as provided in Section 23100. Annuity Deposit Fund contributions made based on salary earned prior to July 1, 1944, may be withdrawn as provided in Section 23107.

22810. Subject to rules prescribed by the board, any member may elect to make tax-sheltered annuity contributions for the purpose of providing additional retirement income.

22811. Tax-sheltered contributions shall not exceed 20 percent of the compensation paid to him in any one year computed in accordance with applicable regulations of the Federal Internal Revenue Service.

22812. Employers of members, public officials and public agencies shall remit to the system, monthly or at other intervals fixed by the board, tax-sheltered annuity contributions made, and shall file with the board, reports of such contributions segregated according to members making them, all in accordance with such rules as may be adopted by the board.

#### CHAPTER 10. CONTRIBUTIONS FOR MILITARY SERVICE

22900. Except as provided in this part a member who elects to receive credited service for military or Red Cross service under Section 22713 shall pay such amounts as may be necessary, when added to contributions deducted by the employer during his absence, to make his contributions equal to those he would have made had he not been absent from the service. If the member was not employed in a position requiring membership at the time he entered the military service or an auxiliary thereof, or the service of the Red Cross his contributions for such service shall be based upon the salary he was receiving prior to entering on such service.

22901. If any member of the system required to pay contributions under Section 22900, does not pay such contributions while performing such service, the contributions may be paid by him directly to the system in a single payment before retirement or in monthly installments as provided by the board. Contributions paid under this section shall be paid for service performed after July 1, 1944, with regular interest accruing from the date of the member's discharge or release from military service to the date of payment. Failure to pay such contributions constitutes a break in service.

22902. No contributions shall be required for service credited under Section 22713 from a member for such service on account of an absence after September 15, 1940, if he returned to a position requiring membership in this system prior to March 19, 1948, or after that date if he returned to such employment within six months after the termination of such service and prior to January 1, 1950.

22903. No member may be required to pay contributions for service credited under Section 22713 which was performed prior to January 1, 1950, provided he was continuously performing such service prior to that date and returned to an employment in a position requiring membership in this system within six months after the termination of such service.

22904. No member may be required to pay contributions for service credited under Section 22713 while on a military leave of absence if he entered such service after January 1, 1950, and returned to a position requiring membership within six months after the termination of such service.

## CHAPTER 11. COLLECTION PROCEDURES

23000. The governing board of each school district, the county superintendent of schools, the county auditor and any other employing department or agency shall deduct from the salary of employee members of this system the contributions required by Section 22804 and shall pay to the system those contributions plus the contributions required by Section 23400.

23001. The county superintendent shall draw his requisitions for contributions required by Sections 22804 and 23400 in favor of the State Teachers' Retirement System, and the requisitions, when allowed and signed by the county auditor, shall constitute a warrant against the county treasury. The county superintendent thereupon shall forward the warrants to the board in Sacramento. The amounts received shall be deposited forthwith in the State Treasury to the Teachers' Retirement Fund.

23002. Member contributions required by Section 22804 and employer contributions required by Section 23400 are due and payable in the office of the system 20 calendar days immediately following the period covered by the monthly report upon which the salary earned during the period is being reported and from and upon which the contributions are due, and are delinquent 10 calendar days immediately thereafter.

23003. If a county superintendent of schools or employing agency other than a school district or community college district fails to make payment of contributions as provided in Section 23002, the board may assess penalties.

The board may charge interest on any delinquent contributions until they have been paid to the system, at a rate approximating the average rate yielded on moneys invested by the board during the previous year, but not to exceed 10 percent per annum. The penalties so assessed are deemed interest earned in the year in which received.

23004. The county superintendent of schools or employing agency other than a school district or a county or community college district shall make a report monthly to the system containing such information as the board may require in the administration of the system.

23005. Monthly reports are due in the office of the system 30 calendar days immediately following the month in which the salary being reported was earned, and are delinquent 15 calendar days immediately thereafter.

23006. If a county superintendent of schools or employing agency other than a school district or community college district submits monthly reports late or in unacceptable form, the board may assess penalties.

The board may assess penalties based on one-half of the sum of the contributions covered by the report for late or unacceptable submission of reports at a rate of interest approximating the average rate yielded on moneys invested by the board during the previous year, but not to exceed 5 percent per annum. The penalties so assessed are deemed interest earned in the year in which received.

23007. Should any county superintendent fail to make payment of any assessment by the board, the State Controller shall, upon order of the board, withhold subsequent payments from the State School Fund to the county for deposit in the county school service fund or, upon the request of a county superintendent of schools to the county auditor, he shall withhold payments to a school district for deposit in the district general fund until the contributions and report are received in acceptable form in the office of the system and the board directs the State Controller to make such payments less the amount of such assessments to the county as would have been paid had no payments been withheld. The State Controller shall thereupon pay to the system the amount of such assessments withheld for deposit in the State Treasury to the Teachers' Retirement Fund.

23008. If more or less than the correct amount of the contribution required by Sections 22804 and 23400 is paid to the system based on any salary payment to a member, including salary payments to exchange teachers for service outside of this state, proper adjustments shall be made, without interest, in connection with subsequent salary payments, or adjustments may be made by direct cash payments between the member, the employing agency and the board.

23009. If the board determines that contributions are due the system from a person who has retired, is receiving a disability allowance or died including one who has applied for retirement or disability allowance but has not received his first benefit check and the person is unable to pay the amount due, the board may withhold all or part of subsequent payments due the member, retirant, disabilitant or survivor, until the amounts so withheld equal the contributions due plus regular interest.

23010. Any overpayment made to or on behalf of any member, former member, disabilitant, survivor or retirant, including but not limited to contributions, interest, benefits of any kind, federal or state tax, or insurance premiums, and not recovered prior to or following a death shall be deducted from any death benefit that may

be payable by the system.

23011. Losses or gains resulting from overpayment or underpayment of contributions or other amounts within the limits set by the State Board of Control for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoffs by the State Board of Control, shall be debited or credited, as the case may be, to the appropriate reserve in the Teachers' Retirement Fund.

23012. At any time upon the request of the system, the employing agency shall furnish a statement of the amount of contributions deducted from salary payments of any member, the services performed and the salary earned by him since the end of the period covered by the last report of the superintendent or employer. The system may use the information shown in the statement in determining contributions to be paid by or to the member or to a beneficiary, or use it in determining the member's status upon retirement, even though the member's and employer's contributions will not be received by the board until after the payment or determination.

## CHAPTER 12. RETURN OF CONTRIBUTIONS

23100. Upon the termination of a member's employment by any cause other than death or retirement there shall be paid to him, or if no other benefits are payable under this part upon the death of a member, there shall be paid to the beneficiary nominated by the deceased member:

- (a) The accumulated retirement contributions.
- (b) The accumulated annuity deposit contributions.
- (c) The accumulated tax-sheltered annuity contributions unless the withdrawal is made within five years of initial deposit of tax-sheltered contributions, in which case the refunded amount shall be without interest.

23101. When a member's contributions are returned to him, as provided in Section 23100, all rights to benefits pertaining to the service credits represented by those contributions are forfeited. Such rights and benefits, based upon service performed prior to refund, shall not be restored until the member has redeposited the total of the refunded contributions, and paid the regular interest thereon as provided in Chapter 13 (commencing with Section 23200) of this part.

23102. Prior to the system paying a refund of contributions, the employer or superintendent of schools shall certify that the member's employment has been terminated.

23103. The board shall deduct 4 percent of the refundable balance or twenty-five dollars (\$25), whichever is less, from each refund made upon termination of service. The amounts deducted are appropriated to the State Teachers' Retirement System and shall be credited to the support appropriation provided for in Section 22003 as reimbursements for the fiscal year during which such

amounts are deducted.

23104. Without terminating his membership a member may withdraw tax-sheltered contributions in his individual account. If the member withdraws such contributions within five years after the first contribution is made no interest is refundable thereon.

23105. Refunds to a member shall be made upon request of the member, or may be made without such request if it appears to the board that the member's employment is permanently terminated and the member does not have enough service under the system to qualify for receipt of a retirement benefit.

23106. If a member ceases to be entitled to credit for service in this system because he has become entitled to credit for such service in another retirement system supported wholly or in part by funds of the United States government, or any state government or political subdivision thereof, he is entitled to a refund of the accumulated retirement contributions made during the period for which he is entitled to credit in the other retirement system.

23107. Any member without terminating membership and upon making application on forms provided by the system shall be paid a refund of the accumulated annuity deposit contribution.

23108. Employing school districts and other employing agencies shall notify any member who terminates employment as to the member's eligibility to receive retirement benefits from this system. The notice shall include the rate of interest which will be earned if accumulated contributions are not withdrawn and shall inform persons with less than five years credited California service that the only benefit for which they are eligible at any time is the refund of accumulated contributions. Employing school districts and other employing agents shall transmit such information to the member as part of the usual separation documents.

### CHAPTER 13. REDEPOSIT OF CONTRIBUTIONS

23200. If a person whose accumulated retirement contributions have been refunded again becomes a member of the system he may elect to redeposit such contributions with regular interest, after he has subsequently performed one year of creditable service provided he repays all such contributions previously refunded.

For time prior to July 1, 1944, regular interest shall be at 2½ percent compounded annually. Such redeposit shall also include the administration expense provided in Section 23103.

23201. Repayment of withdrawn accumulated retirement contributions shall be made in one sum, or in not more than 60 monthly installments, provided that no installment, except the final installment, shall be less than twenty-five dollars (\$25).

23202. An election pursuant to Section 23200 to redeposit accumulated retirement contributions may be made by a member anytime prior to the date of his retirement or payment of disability allowance, whichever occurs first.

An election to redeposit refunded contributions shall be considered as an election to repay all contributions previously refunded.

If any payment due because of such election is not received at the Sacramento office of the system within 120 days of its due date, the election shall be canceled. Upon such cancellation of election any payments made under the election shall be refunded.

In the event of cancellation of the election the member may at any time prior to the date of his retirement or payment of disability allowance, whichever occurs first, again elect to redeposit accumulated retirement contributions previously withdrawn or refunded, in accordance with Section 23200 and all the laws, rules and regulations pertaining thereto.

A disabiltant who elected not to redeposit contributions may at any time and prior to the date of subsequent retirement elect to redeposit, pursuant to Section 23200, after attainment of three years of credited service subsequent to the last disability payment.

23203. Any person whose contributions were refunded to him and who has received, or will qualify for the receipt of a retirement allowance from the Public Employees' Retirement System, or from the University of California Retirement System or the Legislators' Retirement System or a local system may elect to redeposit the contributions refunded to him, with regular interest, without being employed in a status requiring membership in this system.

A person who elects to redeposit as provided herein shall not receive credit for service which might otherwise be creditable under the provisions of Section 22718.

#### CHAPTER 14. TRANSFER OF ASSETS

23300. This article details the provisions relating to the transfer of assets from the Los Angeles Unified School District Retirement System and the Los Angeles Community College District Retirement System to the State Teachers' Retirement System.

The purpose of the asset valuation method described in this chapter shall be to provide equality for each party.

The transfer of assets provided for in this chapter shall be in cash or in securities in kind. Without in any way limiting the definition of "securities" and so that it may be perfectly clear, this term shall include notes secured by mortgages or real estate mortgages.

23301. Sections 23302 to 23307, inclusive, apply to the transfer of assets as of June 30, 1972, as they relate to the Los Angeles Unified School District Retirement System.

23302. The total market value of the State Teachers' Retirement Funds' securities shall be established as of the close of business on June 30, 1972. The accrued income on the securities at June 30, 1972, cash on hand, the investment principal in course of collection and the members contributions receivable shall be added to the total market value of securities and, after deducting interest and principal

collected in advance and retirement claims payable and filed, this amount shall be divided by the total of member contribution reserves plus reserves for retirement annuities, death annuities, and survivor benefits. The quotient thus obtained, computed to eight places past the decimal, shall be divided into the total of the cash, market values of the securities in kind which are to be transferred to the State Teachers' Retirement System to enable that system to discharge the obligations for member contribution reserves plus reserves for retirement annuities, death annuities and survivor benefits being assumed by that system for the Los Angeles Unified School District Retirement System in Section 23605, established as of the close of business on June 30, 1972, and any accrued income thereon, to provide the values of the Los Angeles Unified School District's assets for transfer. To ensure uniform calculation of the reserves for retirement annuities, death annuities and survivor benefits, the reserves for both systems shall be calculated by applying the appropriate State Teachers' Retirement System's 1943 and 1962 State Teachers' Mortality Tables, 4 percent interest attained-age annuity factors to the benefits payable as of June 30, 1972.

Accrued income properly computed shall include any delinquent interest at the face rate on any item which, while in default, is guaranteed or insured by an agency of the United States government.

Values established in accordance with the above procedures shall be obtained and approved by each board, who may obtain the assistance of other parties and may, if they so desire, agree to binding valuations by a mutually agreed-upon independent party.

Either the Los Angeles Unified School District or the Teachers' Retirement Board may reject specified securities for transfer and recommend alternative selections.

Selection of securities to be transferred in kind shall not be made in a manner adverse to the Teachers' Retirement Fund. While a proportionate division of each holding shall not be required, the State Teachers' Retirement System shall be entitled to a division of the city local system's securities distributed between nonconvertible fixed income investments, equities, and securities convertible into equities in proportion to the book value of these security groupings to the total value of the city local system's portfolio as of June 30, 1972. However, the Teachers' Retirement Board may reject any securities which do not qualify under its investment resolution as amended December 18, 1970.

Should the respective parties be unable to reach agreement on market value of assets by October 15, 1972, the matter shall be submitted to arbitration by an independent party who, in making his determination shall be guided by the State Constitution, existing law, the formal investment resolution of the Teachers' Retirement Board as amended December 18, 1970, and the provisions of this chapter, and his decision shall be binding upon both parties to the extent that it is legal under state law. The arbitrator shall be mutually agreed

upon by the respective boards. If agreement cannot be reached, the market value shall be established by a panel of three arbitrators, one appointed by the Los Angeles Unified School District, one by the Teachers' Retirement Board and the third selected by mutual agreement of the first two. Decisions of the arbitration panel shall be binding upon the Los Angeles Unified School District and the State Teachers' Retirement System to the extent that it is legal under state law.

23303. To mitigate the possibility of conflicts arising because of changing market valuations over time, the transfer shall be effected as soon as possible. To this end, a partial transfer consisting of cash and securities in kind valued at market plus accrued income equivalent to 90 percent of the estimated value of the annuity savings (active member accumulated contributions) shown on the city system's records shall be made as soon after June 30, 1972, as possible with a subsequent adjustment in its valuation amount effected as soon as the aforementioned valuation quotient is computed. A decision as to which stocks shall be eligible for transfer must be agreed upon by both parties prior to the valuation date to avoid any possible inequity. For the total of the common and preferred stocks to be transferred, any change in the market value between the valuation date and the actual date of transfer shall bear a close relationship to the change in the Standard and Poor's Composite Stock Index of 500 Companies between the same dates.

23304. If the Los Angeles Unified School District Retirement System incurs a net realized loss from the transfer of assets at less than their book values, that loss shall be a charge against the residual funds remaining on deposit with the Los Angeles Unified School District.

23305. The transfer of cash and securities in kind from the Los Angeles Unified School District to the State Teachers' Retirement System shall be accomplished by that district delivering the cash and securities in kind at the office of the State Treasurer in Sacramento properly registered in the name of the State Teachers' Retirement System in accordance with the registration requirements of the State Teachers' Retirement System. This transfer shall be completed by June 30, 1973. Interest on the actual amount of any cash transfer shall be at the rate of 6 percent per annum from July 1, 1972, to date of the transfer. Any cash income payments or payments on securities received in the form of securities by the Los Angeles Unified School District after June 30, 1972, which are properly allocable to the Teachers' Retirement Fund shall be paid to the Teachers' Retirement Fund.

23306. If the Los Angeles Unified School District's assets contributed are recorded in the State Teachers' Retirement System's accounts at a total amount different than the total member annuity savings (active member accumulated contributions) and present value of retired roll being financed from local system reserves transferred to the State Teachers' Retirement the difference shall be

recorded in the State Teachers' Retirement System's account as a deferred item which is to be amortized over a 25-year period.

23307. All costs of the asset transfer, asset valuation, security registration, and the administrative cost incurred by the State Teachers' Retirement System in accomplishing the merger of the Los Angeles Unified School District Retirement System and the Los Angeles Community College District Retirement System into the system and the cost of administration, as they relate to the local system, shall be a charge against the residual funds remaining on deposit with the Los Angeles Unified School District and the Los Angeles Community College School District.

CHAPTER 15. PUBLIC CONTRIBUTIONS

23400. The school districts and other employing agencies in the state shall contribute monthly to the Teachers' Retirement Fund the following percentages of the total of the salaries upon which members' contributions are based:

- (a) For fiscal year ending June 30, 1973..... 3.2%
- (b) For fiscal year ending June 30, 1974 ..... 4%
- (c) For fiscal year ending June 30, 1975..... 4.8%
- (d) For fiscal year ending June 30, 1976 ..... 5.6%
- (e) For fiscal year ending June 30, 1977 ..... 6.4%
- (f) For fiscal year ending June 30, 1978 ..... 7.2%
- (g) For all fiscal years after June 30, 1978 ..... 8%

In a local district only the salaries of those members who are not contributing to the local system shall be included in the preceding computations of total contributions by the district.

23401. District taxes may be levied and collected annually pursuant to this section by the respective districts at the same time and in the same manner as other district taxes are levied and collected. The tax shall be in addition to any other district tax now or hereafter authorized by law, and shall not be considered in fixing maximum rates of taxes for school district and community college district purposes.

Such tax is for the purpose of providing funds to make contributions to the Teachers' Retirement Fund required of school districts and community college districts under Section 23400 and to local retirement systems, and the rate shall be such as necessary to raise the amount of difference between the estimated amount of contribution needed and the estimated amount of foundation support provided by Section 41716 or 84725.

The tax rate provided by this section shall not exceed ten cents (\$0.10) per each one hundred dollars (\$100) of the assessed value of property in an elementary school district or five cents (\$0.05) per each one hundred dollars (\$100) of the assessed value of property within a high school district or community college district.

In a unified school district the tax rate provided by this section shall not exceed fifteen cents (\$0.15) per each one hundred dollars (\$100)

of the assessed value of property within the district.

If at the end of any school year there remains an unencumbered balance derived from the revenue of the increase in tax rate provided by this section, such balance shall be used exclusively in the following school year for the expenditures of the school district or community college district during that year required by Section 23400.

23402. The state shall contribute one hundred thirty-five million dollars (\$135,000,000) annually to the Teachers' Retirement Fund for a period of 30 years beginning July 1, 1972. This amount shall be paid to the Teachers' Retirement Fund in equal monthly installments.

23403. The provisions of this part providing for state contributions do not constitute appropriations of money from the State Treasury. The sums required for state contributions shall be appropriated in each State Budget Act, or in such other manner as the Legislature may deem appropriate.

23404. Employer or state contributions made to the system are to finance the employer obligation for all of the members of the system and, therefore, shall not be credited to the individual accounts of the members of the system. Such contributions shall be held in the reserves of the system to finance the employers' share of the cost of all benefits payable by the system. Under no circumstances shall employer contributions be allocated or awarded to individual members, retirants, or their spouses or beneficiaries.

#### CHAPTER 16. SAN FRANCISCO LOCAL SYSTEM

23500. Notwithstanding any other provision of this code, the provisions of this chapter shall govern the matters included in this chapter.

23501. On July 1, 1972 and thereafter all persons who first enter employment in the San Francisco Unified School District and the San Francisco Community College District in positions requiring membership in State Teachers' Retirement System are members of State Teachers' Retirement System in accordance with Section 22501. These new members are excluded from coverage under the Old Age, Survivors, Disability and Health Insurance (Federal Social Security) Law for service performed as a member of State Teachers' Retirement System.

23502. Member and employer contributions for local service of a local system member shall be paid to the local system only for all service performed during the 1972-1973 school year.

23503. The former Permanent Fund contributions in the accounts of teachers who elected to be wholly covered by the San Francisco City and County Employees' Retirement System related to San Francisco local service performed prior to July 1, 1972, shall be retained in the Teachers' Retirement Fund during the 1972-1973 fiscal year. Credited interest shall be applied to these member accounts for the 1972-1973 fiscal year.

23504. Each credentialed member of the San Francisco City and County Employees' Retirement System on June 30, 1972, shall make an irrevocable election to be covered only by that system or to be covered only by the State Teachers' Retirement System for prior and future service performed in the San Francisco Unified School District or the San Francisco Community College District. This election shall be made no later than February 15, 1973, and shall be effective as of July 1, 1972.

This election shall be on a form and executed in such manner as the Superintendent of the San Francisco Unified School District and the Superintendent of the San Francisco Community College District shall specify.

Each district shall notify State Teachers' Retirement System of the individual's election with a copy thereof no later than March 1, 1973. Failure of a person to execute this election shall constitute an irrevocable election for coverage by the San Francisco City and County Employees' Retirement System.

23505. Those credentialed members of the San Francisco City and County Employees' Retirement System on June 30, 1972, who make an irrevocable election to be covered only by the State Teachers' Retirement System for prior and future service performed in San Francisco, shall be allowed to be covered for other certificated service concurrently, where the provisions of the city and county charter permit. This shall not include any credited service, as defined in Section 22117.

23506. All persons on the San Francisco system retired rolls on June 30, 1972, shall remain on the local rolls. The State Teachers' Retirement System will continue the subvention in Section 23526 for those persons, will apply the percentage update and annual improvement factor to payments being made by the State Teachers' Retirement System directly to the retirant, and will pay the two-thousand-dollar (\$2,000) retired death benefit upon their death. The retired death benefit will be reduced by the retired lump-sum death benefit payable by the San Francisco system.

The allowance that would have been payable had the member retired solely under the State Teachers' Retirement System, shall be taken into account in computing the amount of increase for the ten-dollar (\$10) a month per year of service minimum benefit.

23507. If a person dies, becomes disabled, or retires after June 30, 1972, and prior to the execution of an irrevocable election, the election of system coverage shall be made immediately and all benefits shall be paid in accordance with that election.

If a person has made the election to be covered only by the State Teachers' Retirement System and dies, becomes disabled or retires prior to July 1, 1973, benefits shall be paid as though the election had been executed on July 1, 1972.

23508. If a person has made an election to be covered only by the State Teachers' Retirement System and dies, becomes disabled or retires prior to July 1, 1973, the determination of a shortage or

overage in his account shall be made immediately, and any shortage due to the State Teachers' Retirement System which is payable by the member shall be paid prior to the payment of any benefit.

23509. Contributions payable by the member shall be paid with credited interest thereon through June 30, 1972, plus 6 percent interest on the June 30, 1972, balance for period from July 1, 1972, to date of payment.

23510. Persons who select to be covered only by the State Teachers' Retirement System and already have credit for classified or other noncertificated service in the San Francisco local system shall not have that credit transferred to the State Teachers' Retirement System.

23511. The San Francisco City and County Employees' Retirement System shall provide concurrent retirement benefits for classified and other noncertificated service in the San Francisco system according to the provisions applicable to miscellaneous employees of the time of the concurrent retirement for:

(a) Members of that system who transfer to the State Teachers' Retirement System after June 30, 1972; and

(b) Persons who were members of both retirement systems on June 30, 1972; and

(c) Any person who could have qualified under (b) if he had not taken a refund from either but not both systems, provided he qualifies for and redeposits prior to retirement.

23512. Notwithstanding the provisions in Section 23901, a member of the San Francisco local system may retire concurrently and receive credit for service performed in other states of the United States, its territories and possessions and the Dominion of Canada provided that person is eligible under Sections 22717 and 22718.

23513. If a person elects to be covered only by the State Teachers' Retirement System under Section 23504, there shall be deposited in the Teachers' Retirement Fund as of July 1, 1973:

(a) An amount equal to the contributions that would have been required had all service prior to July 1, 1972, been performed as a full-time member of State Teachers' Retirement System plus credited interest through June 30, 1972, plus 6 percent interest for the balance of the 1972-1973 fiscal year; plus

(b) An amount equal to 8 percent of the employee compensation as provided in Section 22114 for service performed during the 1972-1973 fiscal year, plus 6 percent interest; plus

(c) An amount equal to 3.2 percent of employee compensation as provided in Section 22114 as the employer's portion for service performed during the 1972-1973 fiscal year, plus 6 percent interest.

23514. If the accumulated contributions in the person's local fund account at the time of transfer to the State Teachers' Retirement System are not equal to those required in Section 23513, the difference between the amount in the account and the required amount is an unfunded liability and is the responsibility of the employer. The San Francisco City and County Employees'

Retirement System shall, at the time of the transfer of assets, provide the additional amount of accumulated contributions required to put each individual account in balance if the shortage is due to the rate of contributions which had been required by that local system. Such amount shall be a charge against the employer's reserve in the San Francisco City and County Employees' Retirement System attributable to the San Francisco Unified School District and the San Francisco Community College District.

Any funds transferred by the local system in addition to the accumulated contributions already in the member's account shall be deposited as employer contributions in the Teachers' Retirement Fund, and shall not be credited to the member's account and shall not be refundable.

Those persons in the San Francisco local system who elected the option to reduce their contributions by the amount of the old age portion of the social security contribution and those who are members of that system under San Francisco City Charter Section 8.507 are liable for this portion of any shortage in their accumulated contributions due to the Teachers' Retirement Fund, plus credited interest through June 30, 1972, and plus regular interest thereafter. This applies also to those persons who elected to have the required retroactive social security payment paid from their account in the local system at the time such coverage was adopted.

23515. Those persons who on June 30, 1972, were receiving a service retirement allowance from the State Teachers' Retirement System and who at the time such benefit was computed, had it reduced proportionately by the years of service in the local systems covered by social security, as compared with total service credit that otherwise would have been allowed, shall have one-half of such reduction restored prospectively, effective July 1, 1972. The San Francisco City and County Employees' Retirement System shall provide the amount required for such unfunded liability. The present value of the additional allowance shall be transferred to the State Teachers' Retirement System from the San Francisco City and County Employees' Retirement System as of June 30, 1972, and payable on August 1, 1972, plus accrued interest of 6 percent per annum after August 1, 1972.

23516. The San Francisco City and County Employees' Retirement System shall provide for and assume total financial responsibility for the full former Permanent Fund benefit earned through June 30, 1972, or those persons who elect to be covered only by the local system, as those benefits existed in subdivision (a) of Section 24000 on June 30, 1972. The Permanent Fund was terminated July 1, 1972. There shall be no reduction in local benefits because of this section.

23517. Adjustments to accounts caused by late discovery shall be made in accordance with Sections 23513 and 23514.

23518. The San Francisco Unified School District may continue the current annual report of member contributions and service for

fiscal year 1972-73 for all nonlocal certificated members working in the San Francisco Unified School District. The 8-percent employee and 3.2-percent employer contributions for these nonlocal members shall be remitted monthly. If an annual report is submitted instead of a monthly report, it is due on July 31, 1973, and is delinquent on August 31, 1973. The provisions of Section 23006 shall apply.

23519. All costs of the selection, asset transfer, asset valuation, security registration, and the administrative costs in the implementation of Chapter 1305 of the Statutes of 1971 shall be borne by the employer reserve in the San Francisco City and County Employees' Retirement System related to the unified school district and the community college account.

23520. For the members of the San Francisco local system who select to be covered only by the State Teachers' Retirement System, the transfer of assets from the San Francisco local system to the State Teachers' Retirement System shall be in cash or in securities in kind. While a proportionate division of each holding shall not be required, the securities transferred to the State Teachers' Retirement System shall be divided between nonconvertible fixed income investments, equities, and securities convertible into equities in proportion to the book value of these security groupings to the total value of the San Francisco local system portfolio as of March 31, 1972. For this purpose, cash will be counted as equivalent to a security valued at market.

The value of securities in kind that are to be transferred shall be determined as follows: Nonconvertible fixed income investments held in the portfolio on March 31, 1972, will be valued by discounting at the annualized earnings rate on the State Teachers' Retirement System's nonconvertible fixed income portfolio as of June 30, 1973, computed in accordance with established State Teachers' Retirement System procedures, plus an allowance for accrued income. However, where the value for any specific security when computed in this manner would be above the value at which the security may be redeemed at the first date at which it is callable or refundable, then the applied rate shall be computed to the redemption price at the first date at which the security is redeemable or refundable, whichever is later, plus an allowance for accrued income. Nonconvertible fixed income securities purchased after March 31, 1972, equities and securities convertible into equities shall be valued at market plus accrued interest if any. All securities to be transferred shall be valued as of June 30, 1973.

Either the San Francisco City and County Employees' Retirement System or the Teachers' Retirement Board may reject specific securities and recommend alternative assets. Selection of securities to be transferred in kind shall not be made in a manner adverse to the Teachers' Retirement Fund. Should the respective parties be unable to reach agreement by August 15, 1973, the matter shall be submitted to arbitration by a third party, and his decision shall be binding upon both parties. In making his determination, the third

party arbitrator shall be guided by the Constitution, other existing provisions of law, including this section, and the formal investment resolution of the Teachers' Retirement Board.

The arbitrator shall be mutually agreed upon. If agreement cannot be reached, the arbitrator shall be appointed by the Governor from a list of four names; two names each to be submitted independently by the San Francisco City and County Employees' Retirement System and the Teachers' Retirement Board.

23521. If a net realized loss occurs from the transfer of assets at less than their book values, that loss shall be a charge against the employer's reserve resident in the San Francisco City and County Employees' Retirement System attributable to the San Francisco Unified School District and the San Francisco Community College District.

23522. Residual employer funds shall remain in the San Francisco employer reserve in the local system, and shall be credited on a year-to-year basis as determined by the San Francisco City and County Employees' Retirement System to the employer's accounts in that reserve attributable to the San Francisco Unified School District and the San Francisco Community College District.

23523. The transfer of cash and securities in kind from the San Francisco City and County Employees' Retirement System to the Teachers' Retirement Fund shall be accomplished by that system delivering the cash and securities in kind at the office of the State Treasurer in Sacramento properly registered in the name of the State Teachers' Retirement System in accordance with the registration requirements of the State Teachers' Retirement System. This transfer shall be completed by September 1, 1973. Interest on any cash transfer shall be at the rate of 6 percent per annum from July 1, 1973, to date of the transfer. Any cash income payments or payments in securities made to the San Francisco local system after June 30, 1973, which are on securities to be transferred to the Teachers' Retirement Fund and are properly allocable to the Teachers' Retirement Fund shall be transferred to the Teachers' Retirement Fund.

23524. In the event that a preponderance of the members of the San Francisco local system elect to be fully covered by that system so as to require a transfer of cash and securities in kind from the Teachers' Retirement Fund to the San Francisco local system, the State Teachers' Retirement System shall be bound by the conditions enumerated in Sections 23520, 23521, and 23523.

23525. The San Francisco City and County Employees' Retirement System shall submit a list of all members of the system as of June 30, 1972, who have credential service which would qualify for membership in State Teachers' Retirement System. The list shall be submitted to State Teachers' Retirement System no later than October 31, 1972.

23526. The system shall pay to the San Francisco Unified School District and the San Francisco Community College District the

amounts due for subventions required prior to the amendments to this chapter during the 1971 Regular Session of the Legislature on account of persons who retired or died prior to July 1, 1972.

#### CHAPTER 17. LOS ANGELES UNIFIED SCHOOL DISTRICT PLAN

23600. Chapter 1305 of the Statutes of 1971, modified the State Teachers' Retirement System for improving benefits for, and providing a source of financing from teachers and school districts which did not maintain a local retirement system. These changes make it impossible to continue the prior relationship of the Los Angeles and San Francisco systems to the State Teachers' Retirement System. To enable these local systems to separately determine their future course of action, Chapter 1305 of the Statutes of 1971 makes no change in the local systems other than to terminate additional subventions after June 30, 1972.

The purpose of this chapter is to grant authority to the Los Angeles Unified School District to take any and all necessary steps to determine whether it wishes to merge with the State Teachers' Retirement System and thereby gain the advantage of the benefit improvements and financing structure of that system, or to continue to operate a separate system under a local benefit and financing program. This authority shall include the right to expend moneys out of the local system fund to cover the expenses of the investigation of the advantages of the merger and to consummate the merger if this course appears desirable, as well as to create and maintain reasonable contingency reserves to insure an orderly and adequate transition fully protecting the interests of the Los Angeles teachers.

23601. Notwithstanding any other provision of this code, the provisions of this chapter shall govern the matters included in this chapter.

23602. The modifications to the State Teachers' Retirement System retirement, disability and family allowances formulae contained in Chapter 1305 of the Statutes of 1971 shall not apply to the Los Angeles Unified School District Retirement System, hereinafter called the city local system.

23603. An election shall be held any time prior to July 1, 1972, to determine if the affected members of the city local system are to be covered only by that system or to be covered only by the State Teachers' Retirement System. The election shall be decided by a simple majority of those voting. The election shall be effective as of July 1, 1972.

The election shall be in such manner as specified by the governing board of the Los Angeles Unified School District and the results shall be transmitted to the State Teachers' Retirement System by that board no later than June 30, 1972. All costs of the election shall be borne by the employer reserve in the city local system.

23604. If affected members of the city local system on June 30, 1972, vote in an election held prior to July 1, 1972, to be covered only

by the State Teachers' Retirement System, Sections 23605 to 23616, inclusive, shall apply.

23605. The subvention to the city local system shall be canceled and the retired rolls transferred to the State Teachers' Retirement System as of July 1, 1972, together with the present value of the annuity and other benefits being paid from the employer and employees' reserves in the city local system less the present value of the benefit being provided out of subventions.

23606. There shall be no reduction of any benefit being paid to an individual as a result of Section 23605.

23607. All service credited to the individual accounts in the city local system shall be transferred to the State Teachers' Retirement System on the same basis as credentialed service is credited in the State Teachers' Retirement System.

23608. The Los Angeles Unified School District shall transfer to the Teachers' Retirement Fund as of July 1, 1972:

(a) An amount equal to the contributions that would have been required had all service prior to July 1, 1972, been performed as a nonlocal member of the State Teachers' Retirement System plus credited interest through June 30, 1972; plus

(b) An amount equal to 8 percent of the employee compensation as provided in Section 22114 for service performed on and after July 1, 1972.

23609. The Los Angeles Unified School District shall also deposit in the Teachers' Retirement Fund an amount equal to 3.2 percent of employee compensation as provided in Section 22114 as the employer's contribution for service performed on July 1, 1972, through June 30, 1973.

23610. If the accumulated contributions in the person's account at the time of transfer to the State Teachers' Retirement System are not equal to those required in Section 23608, the difference between the amount in the account and the required amount is an unfunded liability and is the responsibility of the employer. The Los Angeles Unified School District shall, at the time of the transfer of assets, provide the additional amount of accumulated contributions required to put each individual account in balance if the shortage is due to the rate of contributions which had been required by the city local system. Such amount shall be a charge against the residual funds remaining on deposit with the Los Angeles Unified School District. Clerical errors in assignment of rates or errors in rates due to incorrectly reported birth dates are the responsibility of the member.

23611. Any funds transferred by the governing board of the Los Angeles Unified School District in accordance with Section 23608 in addition to the accumulated contributions already in the member's account shall be deposited as employer contributions in the Teachers' Retirement Fund, and shall not be credited to the member's account and shall not be refundable.

23612. Persons who elected to retain the  $\frac{1}{70}$  formula when the  $\frac{1}{60}$

formula was adopted by the city local system are liable for the portion of contributions related to that election plus credited interest through June 30, 1972, and regular interest thereafter.

23613. Adjustments to accounts caused by late discovery shall be made in accordance with Sections 23608, 23609, 23610 and 23612.

23614. Those members who took a refund of their accumulated contributions from the former Los Angeles Unified School District Retirement System or the former Los Angeles Community College District Retirement System or the San Francisco City and County Employees' Retirement System, prior to July 1, 1972, and who have former Permanent Fund contributions only on deposit related to former local system service shall have those accumulated former Permanent Fund contributions on deposit as of July 1, 1972, treated in the same manner as accumulated retirement contributions of all nonlocal members. Upon discovery and notification to such members, they shall:

(a) Redeposit the contributions required to bring the account into full balance with regular interest prior to retirement; or

(b) Leave those former Permanent Fund accumulated contributions on deposit and receive a reduced retirement allowance under the law as it read on June 30, 1972.

23615. Those members who took a refund of their accumulated contributions from the former Los Angeles Unified School District Retirement System or the former Los Angeles Community College District Retirement System or the San Francisco City and County Employees' Retirement System, prior to July 1, 1972, and who also took a refund of their former Permanent Fund contributions from the State Teachers' Retirement System and who redeposited their contributions in the local system but did not redeposit their former accumulated Permanent Fund contributions in the State Teachers' Retirement System shall redeposit the contributions with regular interest required to bring the account into full balance when notified by the system. The redeposit may be made immediately without a waiting period and shall be made prior to retirement. Such redeposit shall be made in a lump sum or by installment payments as specified by the chief executive officer.

23616. The city local system shall submit a list of all members of that system as of June 30, 1972, who have credentialed service which would qualify for membership in the State Teachers' Retirement System. The list shall be submitted to the State Teachers' Retirement System no later than August 31, 1972.

## CHAPTER 18. BENEFICIARY DESIGNATIONS

23700. Whenever designation of a beneficiary is authorized by this part and no beneficiary has been designated or such designation has been revoked, the estate of the person authorized to make the designation is the beneficiary.

23701. If the estate is the beneficiary, and if the estate need not

be probated except for the payments due from the system, all of the amount due shall be paid directly without probate to the surviving next of kin of the deceased, or the guardians of the survivors' estates, share and share alike, payment to be made in the order in which the following groups are listed:

- (a) Husband or wife.
- (b) Children.
- (c) Father and mother.
- (d) Grandchildren.
- (e) Brothers and sisters.
- (f) Nieces and nephews.

No payment shall be made to persons included in any of the groups if, at the date of payment, there are living persons in any of the groups preceding it. Payment to the persons in any group, upon receipt from the persons of an affidavit upon a form supplied by the board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated, shall be in full and complete discharge and acquittance of the board and system on account of the death.

23702. A member or retirant may at any time designate a beneficiary to receive such benefits as may be payable under this part. Any change of beneficiary shall be in writing on a form prescribed by the system, executed by the member, witnessed by two witnesses, neither of whom may be beneficiaries or next of kin of the member, as listed in Section 23701. To be valid the instrument must be received in the office of the system before the member's death.

Such designation of beneficiary, other than a designation under options 2 and 3, may be revoked at the pleasure of the person making the nomination, and a different beneficiary designated in the same manner herein provided.

23703. A member's marriage, divorce, annulment of marriage or the termination of membership by refund constitutes a revocation of his previous designation of a beneficiary except as provided herein.

Any designation of beneficiary in effect on October 1, 1967, which was filed prior to the occurrence of any of the conditions specified herein is void.

After any revocation or voidance of a beneficiary designation, a member may designate the same or another beneficiary or beneficiaries in accordance with Section 23702.

A nomination of beneficiary filed with the system after an interlocutory decree in a dissolution of marriage action has been issued by the court shall continue to be valid after filing of the final decree of the dissolution of marriage.

23704. If after nomination of his child or children as a beneficiary, a married member, or retirant, has issue of his marriage and such child survives him, or is born after his death, such child shall receive an equal share with those children named as such beneficiaries unless he declares in a writing filed with the system that such child is

intentionally excluded as a beneficiary. No other evidence to rebut the presumption of such revocation can be received.

23705. Children of a deceased child (such child being a designated beneficiary or such afterborn beneficiary), of the member or retirant shall receive, share and share alike, the share that such child would have received were he living at the date of the death of such member or retirant.

23706. There is a 30-day claim period subsequent to notification of death before drawing a warrant in favor of the designated beneficiary.

23707. Whenever any member of the system dies while in active membership status, including those on a deferred membership status, or within four months after the termination of the member's employment in a status requisite for membership, benefits payable at death, unless a claim by someone other than the designated beneficiary or beneficiaries is filed with the system during the period provided in this chapter, shall be paid to the beneficiary designated by him on a form provided by the system and on file in the office of the system prior to the death of the member.

23708. Payment to a beneficiary designated in the form on file in the system at the date of death by a warrant drawn prior to any claim under a will or under community property rights constitutes full discharge of any and all liability of the board and system by reason of the member's death.

23709. The board, if the whereabouts of the nominated beneficiary cannot be determined, or if the beneficiary is the estate of the deceased person, may pay to the undertaker who conducted the funeral, or to any person who, or any organization which, has paid the undertaker from funds owned by the person or organization, in its discretion all or a portion of any amount payable under the system, but not to exceed the funeral expenses of the deceased person, or the portion of the expenses paid by the person or organization, as evidenced by the sworn itemized statement of the undertaker, person, or organization and by such other documents as the board may require.

The payment is in full and complete discharge and acquittance of the board and system up to the amount paid.

## CHAPTER 19. DEATH BENEFITS

23800. (a) Except as otherwise provided in Section 23804, 24202, or 24203 payment pursuant to subdivision (b) of this section shall be made upon receipt of proof of a member's death which occurred:

(1) Before the effective date of his retirement and within four months after the termination of the member's employment in a position requiring membership in this system, or

(2) While the member was physically or mentally disabled for performance of his duty, if such disability had been continuous from such termination.

(b) There shall be paid to the designated beneficiary:

(1) The accumulated retirement contributions made after June 30, 1935.

(2) The accumulated annuity deposit contributions.

(3) The accumulated tax-sheltered annuity contributions unless the withdrawal is made within five years of initial deposit of tax-sheltered contributions, in which case the refunded amount shall be without interest.

(4) The sum of two thousand dollars (\$2,000), provided the member had at least one year of credited service.

23801. The benefits provided in Section 23800, except as otherwise provided, are payable upon receipt of proof of a member's death which occurred:

(a) While he was employed in a position requiring membership in this system, and was receiving compensation because of such employment, and before the effective date of his retirement, or

(b) While the member was disabled, if disability had been continuous from the last day for which compensation was paid to him, or

(c) While he was on a leave of absence without compensation, granted in accordance with the Education Code and for reason other than disability, or military service, or

(d) Within four months after the termination of the member's employment in a position requiring membership in this system; provided, first that death was not included within the provisions of subdivision (b), or

(e) Within six months of his last day of service if an application for retirement was received by the system within four months of his last day of service, provided benefits are not payable under Section 24200.

(Amended by Stats 1976, Ch 1011 )

[ORIGINAL SECTION]

23801 The benefits provided in Section 23800, except as otherwise provided, are payable upon receipt of proof of a member's death which occurred

(a) While he was employed in a position requiring membership in this system, and was receiving compensation because of such employment, and before the effective date of his retirement or after such date if under the provisions of Section \_\_\_\_\_ he is to be considered as an active member at the time of death, or

(b) While the member was disabled, if disability had been continuous from the last day for which compensation was paid to him, or

(c) While he was on a leave of absence without compensation, granted in accordance with the Education Code and for reason other than disability, or military service, or

(d) Within four months after the termination of the member's employment in a position requiring membership in this system, provided, first that death was not included within the provisions of subdivision (b), or

(e) Within six months of his last day of service if an application for retirement was received by the system within four months of his last day of service, provided benefits are not payable under Section 24200

23802. From the amount determined under paragraph (4) of subdivision (b) of Section 23800 there shall be deducted an amount

equal to that portion of the benefit payable on account of the death by a local system or the Public Employees' Retirement System, which is provided from contributions of the employer, and is in addition to the portion of the benefit payable by such systems which is made up of the accumulated contributions of the member, and independently of any optional election made by the person at the time of his retirement, under which he received a reduced retirement allowance and a benefit was provided at his death.

23803. Upon receipt of proof of the death of a retirant there shall be paid to the designated beneficiary the sum of two thousand dollars (\$2,000) except for any reduction of the death benefit made under Section 23010.

From the death benefit provided in this section, there shall be deducted an amount equal to the lump-sum death benefit payable on account of death by a local system or by the Public Employees' Retirement System or the University of California Retirement System. The deduction shall be made whether such benefit is payable before or after retirement under such local or state system.

23804. If on the date of death the member has met the following conditions:

- (a) Death occurred after June 30, 1972, and
- (b) Has one or more years of credited service, and
- (c) If there has been a break in service of more than one year, one-half year of credited service has been performed after the end of last break, and
- (d) The provisions of Sections 23800 and 23801 have been met, or
- (e) Lacking the above, was a disabiltant receiving a disability allowance which began to accrue after June 30, 1972; a family allowance shall be paid subject to the provisions of this chapter and Section 24203 as follows:

(1) To the surviving spouse, having care of children there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's highest average monthly salary earned during any 12 consecutive months within the 36 months immediately preceding death, plus 10 percent of such salary for each child, up to a maximum of 90 percent of such salary, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies and there are children who qualify under Section 22112, there shall be paid to the guardian of such children under age 18, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's highest earned annual salary during any 12 consecutive months within the 36 months immediately preceding death, up to a maximum of 50 percent of such salary. If there are more than five such children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraphs (1) or (2) the unremarried spouse age 60 or over shall receive a monthly payment equal to the amount which would have been payable to such spouse based on projected service and projected earned salary,

had the member continued service to age 60 and at that time elected option number 3. The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to allowances under paragraph (2), the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected earned salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number 3. If there are two parents who qualify under this paragraph the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two such qualifying parents. Otherwise, the total amount shall be payable to the one who qualifies.

Allowances payable under this section are in lieu of the death benefit payable under paragraph (1) of subdivision (b) of Section 23800 irrespective of the beneficiary designated to receive that benefit.

23805. If the person or persons to whom a family allowance is payable marries, dies or no longer qualifies for the allowance, the allowance shall be terminated on the last day of the month preceding such event.

23806. A stepchild or adopted child acquired subsequent to the death of the member shall not be entitled to any allowance and shall be excluded in the determination of allowances under this chapter.

23807. Upon termination of family allowances under Section 23804 and prior to such allowances totaling the amount payable under paragraph (1) of subdivision (b) of Section 23800, the balance shall be paid in a lump sum to the survivor who is the highest on the following list:

- (1) Nominated beneficiary.
- (2) Spouse.
- (3) Children, qualified under paragraph (1) or (2) of subdivision (e) of Section 23804.
- (4) Parent.
- (5) Estate of the last person who received a family allowance.

23808. Family benefits payable under Section 23804 shall be increased by the benefit improvement factor.

23809. Effective July 1, 1973, the benefits of persons eligible for survivor benefits pursuant to Section 23804 as it read on June 30, 1972, shall be increased as follows:

- (a) Those eligible for ninety dollars (\$90) per month shall be

increased to one hundred five dollars (\$105) per month

(b) Those eligible for one hundred eighty dollars (\$180) per month shall be increased to two hundred ten dollars (\$210) per month.

(c) Those eligible for two hundred fifty dollars (\$250) per month shall be increased to two hundred ninety-five dollars (\$295) per month.

These benefits shall be subject to the provisions of Section 22131 and 24400 with the first annual improvement to occur on September 1, 1974, and annually thereafter.

23810. Lump-sum payments provided under Section 23804 shall include credited interest on the unpaid balance calculated from: (1) the date of death to the date of payment if no benefits were paid under that section; (2) the date benefits, or rights to benefits, terminated to the date of payment if benefits were paid under paragraph (1) or (2) of subdivision (d) of that section; (3) the date of death to the date benefits commenced under that section, if benefits were paid under paragraph (4) of subdivision (d) of that section.

23811. There shall be deducted from the family benefit any benefits payable to a beneficiary from other public systems, exclusive of benefits payable for reasons other than the same event which caused payment of the family benefit.

23812. Survivor benefits payable on account of deaths which occurred prior to July 1, 1972, shall be continued in the amounts and under the conditions stated in Sections 23804 and 23811, as they read prior to July 1, 1972.

23813. If a member was employed in the educational institutions of the State of California, and because of a change of employment to a California state college or state university became a member of the Public Employees' Retirement System and subsequently died, his survivors shall be deemed eligible to receive survivor benefits as provided in Sections 23800 and 23804, as they existed on the date of the death of the member, less any benefits paid by any other California public retirement system.

This section shall apply only to survivors of members of this system who became members of Public Employees' Retirement System on September 1, 1971, and whose death occurred within 15 days following the expiration of the four-month extended coverage period in subdivision (e) of Section 23801.

This section shall cease to be operative 60 days after the effective date of the amendment enacted at the 1973-74 Regular Session.

23814. Benefits payable on account of deaths which occurred prior to July 1, 1972, and provided under former Section 14193, as it read prior to July 1, 1972, shall be continued. The provisions of former Sections 14195, and 14196 as they read prior to such date shall continue to apply to these payments.

## CHAPTER 20. RETIREMENT PROVISIONS

23900. A retirement or a disability allowance shall become effective upon any date designated by the member, provided:

(a) An application for retirement or disability allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement or disability,

(b) The designated effective date is later than the last day of service for which salary is payable to the member,

(c) The designated date does not fall on a weekend or holiday contiguous with the last day of service for which salary is paid to the member,

(d) The designated date is no earlier than the first day of the month in which the application is received by the system in Sacramento,

(e) The designated date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

23901. Any member who comes within any of the following descriptions may be retired for service at his option upon written application therefor to the board:

(a) Who has attained age 55 years or more and who has at least five years of credited California service, if five of the final six years of credited service have been in this state.

(b) Who is credited with service which is not used as a basis for benefits under any other public retirement system, provided he has attained age 55 and retires concurrently under the Public Employees' Retirement System, or under the University of California Retirement System, or under a local system.

In the calculation of allowances of members who qualify for retirement under subdivision (b) of this section, and who are not qualified for retirement under subdivision (a) of this section, there shall be excluded any service performed in other states of the United States, its territories and possessions or in the Dominion of Canada.

Application for retirement under subdivision (b) may be made at any time, and such applicants are not subject to the provisions of Section 23907.

23902. A member may apply for a disability allowance if he has five or more years of credited service, the last five of which have been served in this state, and has not attained age 60 years, or has unused sick leave with sufficient days to have him receive salary on account of such sick leave to age 60 years, and has received compensation during any one of the 36 months immediately preceding the date on which the payment of disability allowance is to become effective.

23903. The board may authorize payment of a disability allowance to any member who is qualified upon application by the member, his guardian or conservator, or his employer, if such application is made:

(a) While the member is employed in a position requiring membership in this system and is receiving compensation because of such employment, or

(b) While he is physically or mentally incapacitated for performance of his duty and such incapacity has been continuous from the last day for which compensation was paid to him, or

(c) While he is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of his duty, and within four months after the last day of employment for which compensation was paid, or within 12 months while on an official district leave to study at an approved college or university, or

(d) Within four months after the termination of the member's employment in a position requiring membership in this system provided, first, that such application was not made under the provisions of subdivision (b) and, second, that such application was not made more than four months after the last day for which compensation was paid to him.

On receipt of an application for disability allowance the system may order a medical examination of a member to determine whether he is incapacitated for further service. If the applicant for disability allowance refuses to submit to the required medical examination, the application for disability allowance shall be canceled.

23904. Any member for whom the employer makes application for disability retirement and whom the board finds not to be disabled under the provisions of this chapter shall be reinstated to his former position upon receipt by the employer of notification from the board of the denial of the disability retirement.

23905. The disability allowance shall accrue and become payable as provided in Section 24600.

23906. If, prior to attaining the age of 55 years, a person who is entitled to receive a retirement allowance because of his retirement for disability prior to July 1, 1972, engages in a gainful occupation the board shall reduce the portion of his monthly retirement allowance which is not provided by his accumulated contributions, to an amount, which when added to the compensation earned monthly by him, does not exceed the amount of the compensation which would be earnable by a person holding the same or an equal position as or to that which he held at the time of his retirement, and in the same salary step or rating, or if no such position then exists such compensation earnable immediately prior to its abolition.

If his earnings are further altered, the board shall further alter such portion of his retirement allowance to the lower of the following amounts:

(a) The amount of such portion of his retirement allowance as it would be if not reduced under this section.

(b) An amount which, when added to the compensation earned by him, equals the amount of the compensation which would be

earnable by a person holding the same or an equal position as or to that which he held at the time of his retirement, and in the same salary step or rating, or if no such position then exists, such compensation earnable immediately prior to its abolition.

For purposes of this section the retirement allowance subject to adjustment is the unmodified allowance irrespective of the option elected.

When he attains the age of 55 years, his retirement allowance shall be made equal to the amount it would be if not reduced under this section, and may not again be modified under this section. The provisions of Section 23910 do not apply to those persons affected by this section.

23907. (a) If the last day of a member's service was performed prior to July 1, 1935, he shall have the right to make application for retirement or disability allowance only after performing additional service in a status requiring membership in this system, of not less than two years, after June 30, 1950.

(b) Subdivision (a) of this section shall not be applicable if a member performed at least three schooldays of service on or after July 1, 1935, and prior to July 1, 1950, even though compensation for such service was not paid out of any public funds, and if such person taught for 15 years or more before July 1, 1935. This provision became effective on November 10, 1969.

(c) Insofar as subdivision (b) of this section creates any rights to a retirement or disability allowance under this chapter, such allowance shall only be payable for periods commencing with November 10, 1969.

23908. The board may require any retirant retired for disability who has not attained the age of 58 years, to undergo a medical examination. If the examination, together with other available information, shows to the satisfaction of the board that he is no longer disabled, his retirement allowance shall cease, and he shall be reinstated to membership in the system. Should any such retirant refuse to submit to medical examination, as herein provided, payments to such retirant under disability retirement shall be discontinued and all rights of the retirant in the disability allowance shall be revoked.

23909. The board may require any member receiving a disability allowance, who has not attained the age of 60, to undergo annual medical examination. If the examination, together with other available information, shows to the satisfaction of the board that the member is no longer disabled, his disability allowance shall cease. Should any such member refuse to submit to medical examination, as herein provided, payments to such member under the disability shall be discontinued and all rights of the member in the disability allowance shall be revoked.

23910. If a person who begins to receive a disability allowance after June 30, 1972, is employed, or is self-employed in any capacity, the monthly benefit for disability shall be reduced by fifty cents

(\$0.50) for each dollar earned.

23911. When a person who has been granted a disability allowance after June 30, 1972, reaches age 60, or at such later date when there are no eligible children, his disability allowance shall be terminated and thereafter he shall receive the allowance payable for service retirement at that age, calculated on the projected earned salary and projected service. The allowance payable under this section, excluding tax-sheltered and annuity deposits, shall not be greater than the terminated disability allowance.

23912. Unless specifically provided to the contrary, no person retired for service shall accept employment in a position requiring membership in the system, or in any teaching capacity in a public school, within one year after the effective date of retirement. In no event shall a person accept such employment until after notifying the board at its office in Sacramento, and if retirement is for disability, until the system has determined by medical examination that he is no longer disabled. If any person fails to comply with these requirements the employment shall be invalid.

23913. If any person retired pursuant to this article is reemployed in a position requiring membership in the system or in any teaching capacity in a public school, or if any person retired for or receiving a disability allowance ceases to be incapacitated, his retirement allowance or disability allowance shall cease, and he shall be reinstated to membership in the system.

23914. Upon termination of a retirement or disability allowance which began to accrue on or after July 1, 1972, the person's individual account shall be credited with the amount of his accumulated retirement contributions as they were on the effective date of retirement or disability allowance, less the sum of all payments made under subdivision (a) of Section 24000 or Section 24100. The reduction shall not be greater than the total of such accumulated retirement contributions.

Upon the termination of a retirement, the person's accumulated annuity deposit contribution and accumulated tax-sheltered annuity contribution accounts shall be credited with the amounts of such contributions as they were on the effective date of retirement less the sum of all payments made under subdivisions (b) and (c) of Section 24000.

23915. Upon termination of the retirement allowance which began to accrue prior to July 1, 1972, the member's individual account shall be credited with amounts which are the actuarial equivalents at that time, as based on the disabled life, where retirement had been for disability, or on the active life where the retirement had been for service of the allowance and annuities being paid from accumulated retirement contributions, accumulated annuity deposit contributions or accumulated tax-sheltered annuity contributions. Such credited amounts shall not exceed the amount of his accumulated contributions as they were in those accounts at the date of retirement.

23916. If a retirant who did not elect an option dies prior to the date the total allowance, paid or payable, equals the accumulated contributions, and there are no further benefits due, except for the death benefit provided under Section 23803, the difference between the accumulated contributions and the total of such allowances shall be paid the person who will receive the benefit payable under Section 23803. If the retirant elected an option, and if the retirant and beneficiary both die before a sum equivalent to such contributions is paid, such difference shall be paid to the estate of the person last receiving or entitled to receive the allowance. This section does not apply to retirements which became effective prior to July 1, 1972.

23917. Allowances payable under subdivision (a) of Section 24000 or Section 24100 shall be increased by application of the improvement factor.

23918. Any retirant who retired for service, whose last employment as a member of the system prior to such retirement was in the California State University and Colleges, may, without reinstatement from retirement or any loss or interruption of benefits under this part, serve as a member of the teaching staff of the California State University and Colleges provided that such service does not exceed 90 teaching days in any one fiscal year, and the compensation payable to such persons for such service does not exceed four thousand dollars (\$4,000) in that fiscal year.

23919. Any retirant who is retired for service may be employed in a position requiring certification qualifications providing he is not paid more than four thousand dollars (\$4,000), including that compensation received under Section 23918, in any one fiscal year for such employment. The employment does not operate to reinstate the retirant as a member of this system, or to terminate or suspend his retirement allowance, and no deduction shall be made from his salary as contributions to this system. The retirant may be reemployed only if able to pass a physical examination prescribed by the State Board of Education.

At the end of each month in which a retirant performed service in a position requiring membership in the system, the employer or other authorized agency shall report to the system the retirant's name, social security number and salary.

A certificate from a physician or surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code showing that he has submitted to and passed a physical examination within the immediately preceding 12-month period and filed with the county superintendent, or, in the case of a retirant to be employed as a substitute in a position requiring certification qualifications at the California School for the Deaf or the California School for the Blind, filed with the State Department of Education, shall be conclusive evidence of his passing the physical examination required by this section.

23920. A disabilitant may be employed in a position requiring certification qualifications. The employment does not operate to

terminate or suspend his disability allowance except as provided in Sections 23908 and 23910, and no deduction shall be made from his salary as contributions to this system.

23921. Effective July 1, 1972, a retiree receiving a disability retirement which was effective prior to July 1, 1972, may be employed in a position requiring certification qualification and earn no more than four thousand dollars (\$4,000) in a school year. The employment does not operate to terminate or suspend his disability retirement allowance except as provided in Sections 23906 and 23908 and no deductions shall be made from his salary as contributions to this system.

## CHAPTER 21. BENEFITS FOR SERVICE RETIREMENT

(Heading of Chapter 21 amended by Stats 1976, Ch 1011)

[ORIGINAL HEADING]

### CHAPTER 21 BENEFITS FOR DISABILITY

24000. Upon retirement for service which became effective after June 30, 1972, a member shall receive a retirement allowance which shall consist of:

(a) An annual allowance payable in monthly installments, upon retirement at age 60 or over, equal to 2 percent of the final compensation for each year of credited service. If the retirement is effective at less than age 60 this allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month which will elapse until the member would have reached age 60, and

(b) An annuity which shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of his account at the time of his retirement, and

(c) A "tax-sheltered annuity" which shall be the actuarial equivalent of the accumulated tax-sheltered annuity contributions standing to the credit of his account at the time of his retirement.

In computing the above amounts, the age of the member at the last day of the month in which the member has requested his retirement be effective or such later date as provided in Section 23900 shall be used.

24001. Members who were retired under a previously existing local teachers' retirement system or the San Francisco City and County Employees' Retirement System prior to July 1, 1972, who have not retired under the State Teachers' Retirement System for the allowance which existed for local system service performed prior to July 1, 1972, shall have that part of the retirement allowance computed under the law in effect on June 30, 1972, whenever they retire in the future.

24002. For the purpose of calculating retirement allowances, credit for service performed between June 30, 1956, and July 1, 1968, on a part-time basis in each school year shall be based on the ratio that service performed bears to the minimum full-time service required for credit for a year of service.

24003. The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit contributions or accumulated tax-sheltered annuity contributions payable for service retirement, shall not be less than ten dollars (\$10) per month multiplied by the years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited by this system. If the retirement is effective at less than age 60 this allowance shall be reduced by one-half of 1 percent for each full month or fraction of a month which will elapse until the member would have reached age 60.

24004. If a retirant reenters the system as a member and subsequently retires, the minimum retirement allowance is the allowance provided by Section 24003 adjusted for age in accordance with Chapter 24 (commencing with Section 24300) of this part.

24005. A person who was a member on June 30, 1972, and had five or more years of service and who had attained age 55, shall have the option of receiving the allowance payable under Section 14245, as it read on that date in lieu of the allowance payable under Section 24000(a).

## CHAPTER 22. BENEFITS, DISABILITY RETIREMENT

24100. Upon qualification for disability, a member shall receive a disability allowance, payable monthly, equal to 50 percent of the highest average monthly salary earned during any 12 consecutive months within the 36 months immediately preceding the effective date of disability, increased by 10 percent of such salary for each child to a maximum of four such children. A stepchild or adopted child acquired subsequent to eligibility for disability benefits shall not be entitled to any benefit and shall be excluded in the calculation of benefits under this section.

24101. Notwithstanding the provisions of Section 24100, any member who applied for a disability allowance to be effective during July, August or September 1972, and who has been or is in the future approved for a disability allowance with an effective date in July, August or September 1972, shall have that allowance recalculated effective on the first day of the month for which the disability allowance was or is approved, if the following conditions exist:

(a) The member has five or more years of credited service, the last five of which have been served in this state, and has not attained age 60, and

(b) Earned no service credit in the first two school years immediately preceding and less than a year of service credit in the third school year immediately preceding the effective date of the allowance, then the benefit shall be equal to 50 percent of the highest annual salary earned in any one of the four school years immediately preceding the effective date of the disability allowance, increased by 10 percent of such salary for each child to a maximum of four such children.

All other provisions of Section 24100 shall be applicable to a member who receives an allowance pursuant to the provisions of this section.

24102. Allowances payable under Section 24100 shall be reduced by an amount equal to the unmodified benefits paid or payable under other public systems.

24103. Allowances payable under Section 24100 on account of children shall be reduced when children become ineligible. Such reduction shall take into account the increases made by application of the improvement factor, however, the member's disability allowance shall not be less than it would have been if there had never been any eligible children.

### CHAPTER 23. OPTIONS

24200. Any member prior to mailing of his first retirement allowance check and those retirants receiving an estimated allowance under Section 24503 may elect an option which is an actuarially reduced retirement allowance payable throughout the life of the member and his designated beneficiary as follows:

(a) Option 2. Upon death a reduced retirement allowance equal to the reduced amount the member was receiving shall be paid to such person as the retirant has nominated by written designation duly executed and filed with the system at the time of his retirement; or

(b) Option 3. Upon the retirant's death, one-half of the reduced retirement allowance shall be continued throughout the life of such person as the retirant has nominated by written designation duly executed and filed with the system at the time of his retirement.

A member may revoke or change his election of an option at any time prior to the mailing of his first retirement allowance check. Those retirants receiving an estimated allowance under Section 24503 shall not change the election after it has been received in the system's office in Sacramento.

After the election has been signed and notarized, then the election of the option shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after signature and notarization and the system shall proceed to compute the allowance on the basis that no option had been elected.

24201. Upon the termination of a disability allowance under Section 23911 the retirant may elect to modify the future service retirement allowance payable under subdivision (a) of Section 24000 in accordance with provisions of Section 24200. The actuarial equivalents computed under the option selection shall be based on the ages attained by the member and the beneficiary at the time the disability allowance is terminated.

24202. In the event of the death of a person who has filed an acceptable application for retirement allowance and did not elect

the unmodified allowance on the retirement application nor filed his final election of an option, the person shall be considered retired as of the effective date shown on that retirement application or such later date as specified under Section 23900 and to have formally elected option 2 naming the beneficiary shown on said application to receive benefits from this system.

24203. Any member who has qualified to make application for a retirement allowance under Section 23901 may elect, as provided in Section 24200, and without right of revocation or change after the effective date of his retirement to receive an actuarially reduced retirement allowance as of the date of his retirement, of the retirement allowance payable to him when and if he retires for service in a reduced retirement allowance according to the provisions of either option 2 or option 3 as stated in Section 24200. If the death of such member occurs after the date upon which the election has been signed and notarized, then the election shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after the date of signature and notarization.

Upon such member's death, prior to the effective date of his retirement, the beneficiary who was nominated under the option elected and who survives shall receive an allowance calculated under such option, upon the assumption that such member retired on the date of death. The payment of such allowance to the beneficiary shall be in lieu of the family allowance provided in Section 23804 and the payment provided in subdivision (a) of Section 23100 and paragraph (1) of subdivision (b) of Section 23800, except that if the beneficiary dies before all accumulated contributions are paid the balance if any shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and accumulated tax-sheltered annuity contributions, and the amount provided in paragraph (4) of subdivision (b) of Section 23800, shall be paid the designated beneficiary in a lump sum.

If the member subsequently retires, regardless of whether the beneficiary nominated under the option elected is then living, a reduced retirement allowance computed under Section 23800 and the option elected shall be paid.

The amount of the retirement allowance prior to applying the option factor shall be calculated at the member's age at death before retirement, or age on the last day of the month in which the member requested retirement be effective, as the case may be. The reduction of such retirement allowance under the option elected shall be based on the ages of such member and the beneficiary nominated under such option, at the date the election was signed and notarized.

24204. The election of an irrevocable option as provided in Section 24203 shall preclude the payment of disability or family benefits to the member or any beneficiary. Members receiving a disability allowance under Section 24100 may not file an irrevocable election of option.

24205. If a member cancels the election made in Section 24203, that cancellation must be effective prior to the day preceding the effective date of retirement. Regardless of how the member elects to receive his retirement allowance, such allowance shall be reduced by one-half of 1 percent for each year or partial year that option 3 is in effect under Section 24203, or by three-fourths of 1 percent for each year or partial year that option 2 is in effect under Section 24203.

24206. If a member cancels an election under Section 24203, he may again elect an option under the provisions of that section. If he elects to change an option during any year, the reduction for that year will be that for the option 2.

24207. Allowances payable to beneficiaries on account of options elected under Section 24200 or 24203 shall be increased by application of the improvement factor. This factor shall be applicable on the same date when it would have been applied to the allowance of the deceased person.

#### CHAPTER 24. MULTIPLE RETIREMENTS

24300. The purpose of this chapter is to provide for the computation of retirement allowances to be granted to a person who:

(a) Previously retired from this system and subsequently reinstates as a member; or

(b) Previously received a disability allowance from this system and subsequently receives a service retirement under subdivision (a) of Section 24000.

24301. If the retirant returns to active service and performs less than three years of credited service prior to subsequent retirement, he shall have added to the retirement allowance he was receiving immediately prior to reentry an amount based on the service performed after his last reentry computed in accordance with the retirement formula provided in the law in effect on the date his subsequent retirement is effective but using the same final compensation that was used in the calculation of the retirement allowance he was receiving immediately prior to the last reentry.

If three or more years of credited service are performed after the last reentry, he shall receive the greater of his previous allowance recomputed on the basis of age, determined by deducting from his age at his subsequent retirement the time during which he was retired or the allowance he was receiving immediately prior to reentry, plus an amount based on service performed after his last reentry computed in accordance with Section 22127 and Section 24000.

24302. If less than three years of credited service are performed after his last reentry, he shall receive the lesser of the disability retirement allowance he was receiving at time of reentry or the service retirement allowance based on subdivision (a) of Section 24000 using the actual credited service, the final compensation upon which the disability allowance was based, and an age, but not less

than 55, determined by deducting from his age at his subsequent retirement the time he was retired, plus an amount based upon the credited service after his last reentry computed in accordance with subdivision (a) of Section 24000 using the final compensation which was used in the computation of his disability retirement allowance.

If three or more years of credited service are performed after his last reentry, he shall receive a retirement allowance calculated under the provisions of Section 22127 and subdivision (a) of Section 24000.

24303. If less than three years of credited service are performed after discontinuance of the disability allowance, he shall receive a retirement allowance which is the lesser of the service retirement allowance computed under subdivision (a) of Section 24000 based on actual and projected service and salary or the disability allowance he was receiving immediately prior to discontinuance of that allowance, exclusive of increments added for children. He may not elect to pay for or receive credit for service with which he was not credited on the effective date of the disability allowance.

If three or more years of credited service are performed after discontinuance of the disability allowance, he shall receive a retirement allowance computed under subdivision (a) of Section 24000 based on actual and projected service and salary. He may pay for and receive credit for creditable service with which he was not credited on the effective date of his disability allowance.

#### CHAPTER 25. INCREASES IN RETIREMENT BENEFITS

24400. The allowances which commenced to accrue prior to July 1, 1972, and payable on August 1, 1972, exclusive of annuities from the Annuity Deposit Fund and tax-sheltered annuities payable under former Sections 14193, 14280 and 14284, as those sections read under laws in effect on June 30, 1972, shall be increased by application of the benefit improvement factor on September 1, 1973, and annually thereafter.

24401. This chapter does not give any retirant, or his successors in interest, or his beneficiary, any claim against the system for any increase in any allowance paid or payable prior to July 1, 1972.

#### CHAPTER 26. ADVANCES ON RETIREMENT ALLOWANCES

24500. Whenever the system determines that payments in the correct amount due a member who has applied for retirement or disability cannot be made when payable because required information or documentation is not yet on file in the system, payment of estimated allowances based on preliminary information in the possession of the system, may be made; the system may present claims therefor, and the State Controller shall draw warrants in payment of such claims.

24501. Any loss incurred in connection with an estimated

allowance shall be a charge against the accumulated retirement contributions and the benefit provided in paragraph (4) of subdivision (b) of Section 23800.

Such payments of estimated allowances to a retirant or disabilitant shall not be made in excess of accumulated retirement contributions in the account and shall be a lien on such contributions until otherwise accounted for.

24502. If any such estimated allowances are more or less than the correct amount due to the retirant, disabilitant, or beneficiary, the difference between such correct amount and the estimated allowance shall be adjusted in subsequent payments or the State Controller may state an account with the retirant, disabilitant, or beneficiary, pursuant to Section 12419 of the Government Code.

24503. Whenever the board determines that payments to a member who has applied for retirement, and who has expressed an interest in an option but has not made his final election, cannot be made until after the first day of the month following that month for which such payments are due, the board may present claims for advances on retirement allowances which would normally be due a retired member of the system estimated on preliminary information in the possession of the board, and the State Controller shall draw warrants in payment of such claims.

If the member has applied for a service retirement allowance and has expressed an interest in option 2 or option 3, the estimated retirement allowance shall be in the amount of the monthly payment due on the assumption that the member had elected option 2.

## CHAPTER 27. PROCEDURES CONCERNING PAYMENT

24600. (a) The retirement or disability allowance begins to accrue on the first day of the month in which the retirement or disability is effective.

(b) On death of the retirant, a person receiving a disability allowance or a person who is reinstated to membership, the allowance ceases on the last day of the month preceding that in which the death or reinstatement occurs.

(c) Family benefits begin to accrue on the first day of the month in which the death of the member occurs.

(d) Option benefits begin to accrue on the first day of the month in which the retirant died.

(e) Family or disability allowances payable on account of a full-time student begin to accrue at the beginning of the month during which the full-time student qualified for the allowance. An allowance terminates at the beginning of the month in which the student no longer qualifies for it.

24601. Upon receipt of proof satisfactory to the board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from the system, has been lost, the Controller upon the request of the board shall issue a duplicate

warrant in payment of the same amount, without requiring a bond from the payee, and any loss incurred in connection therewith shall be charged against the fund from which the payment was derived.

24602. Persons entitled to receive allowances under this system may authorize deductions to be made from such allowances, in accordance with regulations established by the board, for the payment of group insurance premiums or dues or other charges of any plan of health and welfare benefits, as defined in Section 53200 of the Government Code.

No deductions may be made for the payment of such premiums, dues or other charges under any such policy or plan, unless the active and retired persons enrolled under such policy or plan, total not less than 1,000 in number.

24603. Payment pursuant to the board's determination in good faith of the existence, identity or other facts relating to entitlement of persons constitutes a complete discharge of and release of the system from liability for the payment so made.

Notwithstanding the provisions of Sections 5105 and 5125 of the Civil Code relating to community property interests, whenever payment or refund is made by this system to a member, former member, beneficiary of a member or estate of a member pursuant to any provision of this part, the payment shall fully discharge the system from all adverse claims thereto unless, before payment is made, the system has received at its office in Sacramento written notice of adverse claim.

24604. Any retirement allowance payable to a retirant, which has accrued and remains unpaid at the time of his death, shall be paid to:

- (a) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member, or
- (b) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retirant if the member has not chosen an optional settlement, or
- (c) The estate of the retirant, if there is not a beneficiary entitled under either (a) or (b).

24605. Any disability allowance which has accrued and remains unpaid to a disabilitant at the time of his death shall be paid to:

- (a) The person entitled to receive a benefit under Section 23804, or if none, to
- (b) The beneficiary entitled to receive the death benefit under Section 23800.

24606. Where the member or retirant and the beneficiary have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of any death benefit shall be distributed as if the member had survived the beneficiary.

24607. If any person entitled to a benefit from the system is a minor who has no guardian of his estate, the benefit, not to exceed two thousand dollars (\$2,000), may be paid to the person entitled to the custody of the minor to hold for the minor, upon the written

statement, duly acknowledged and verified, of the person that the total estate of the minor does not exceed two thousand five hundred dollars (\$2,500) in value.

The payment shall constitute full discharge of any and all liabilities of the board and system.

The person shall account to the minor for the money when the minor reaches the age of majority.

Notwithstanding the provision of this section, a natural parent or an adoptive parent having custody of the minor will not be required to establish a guardianship for the purpose of collecting a survivor benefit, family benefit or death benefit.

24608. Whenever any warrant drawn in payment of contributions or accumulated contributions or benefits under this system remains unclaimed or the legal claimant cannot be found, the Teachers' Retirement Board shall redeposit the proceeds of such warrant in the Teachers' Retirement Fund, and shall hold such proceeds for the legal claimant without further accumulation of interest, and such redeposit shall not operate to reinstate the membership of the claimant in this system.

The above provisions shall apply to warrants drawn and canceled by the Controller pursuant to Section 17070 of the Government Code, except that upon notice of cancellation, the proceeds revert to and become a part of the Teachers' Retirement Fund, and shall be applied to meet the liabilities of the Teachers' Retirement Fund.

The board may at any time, after reversion of proceeds as provided above to the Teachers' Retirement Fund and upon receipt of proper information satisfactory to it, return from the Teachers' Retirement Fund an amount equal to such proceeds to the credit of the legal claimant.

24609. Whenever a refund cannot be made under the provisions of Section 23105, or a benefit cannot be paid because the member cannot be found, all accumulated contributions credited to his account shall be transferred to the Teachers' Retirement Fund.

If a person whose entire accumulated contributions were transferred to the Teachers' Retirement Fund returns to a position requiring membership, the system shall return all such contributions to his account with interest that would have been credited to his account had the funds not been transferred.

24610. (a) This section shall only be applicable to a district retirement salary plan in a unified district presently having an average daily attendance of less than 200,000 pupils and which was discontinued by the governing board of the district.

(b) The district shall continue to pay monthly to teachers and other persons who were retired prior to the date of such discontinuance an amount equal to the amount by which the retirement allowance to which any of such retired teachers or other persons were entitled under the plan exceeds the increase in the teacher's or other person's retirement allowance under the State Teachers' Retirement System resulting from the discontinuance.

The arrangement under which such amounts are paid by the district shall not be considered to be a local retirement system for the purposes of Sections 22000 to 24609, inclusive, nor shall such amount be taken into account in the calculation of retirement allowances under the State Teachers' Retirement System.

(c) The reserve fund created by the district from the assets delivered to it by the discontinued district retirement plan under former subdivision (c) of Section 14690 prior to its repeal is continued in existence and the amounts payable under subdivision (b) of this section shall be paid from that reserve fund.

24611. (a) The special reserve resulting from the discontinuance of a district retirement salary plan as provided in former Section 14690 prior to its repeal, and a part of which is used annually in the interest of the employees of the district at the discretion of the governing board, is continued in existence and shall continue to be used first as provided in this section.

(b) The district in which the district retirement plan was discontinued and which credited each teacher or other person employed by the district at the time of discontinuance, in a status requisite for membership in the State Teachers' Retirement System, with an amount which bears the same ratio to the portion of the assets delivered to the district pursuant to former subdivision (c) of Section 14690 prior to its repeal, which remained after the creation of the reserve fund for payments under former subdivision (d) of Section 14690 prior to its repeal, as required by former subdivision (e) of Section 14690 prior to its repeal, as the accumulated contributions credited to the member in his individual contribution account under the discontinued retirement plan at the time of discontinuance, bore to the total accumulated contributions so credited to all such teachers and persons, but such credit to any active member shall not exceed the amount of the member's accumulated contributions so credited at that time. The amount so credited to any person shall continue to be increased by interest at rates approved from time to time by the governing board of the district. The accumulated amount at the date upon which the person retires for service or disability under the State Teachers' Retirement System shall continue to be applied according to rates and tables adopted by the governing board and then in effect, to provide an annuity payable to the person throughout the balance of his life or a lump-sum payment of the total account balance on the date of retirement at the option of the governing board. If the person dies prior to retirement, the amount, with credited interest, shall be paid to his designated beneficiary, as it appears on the records of the district, if any, otherwise to the member's estate. If the person ceases to be employed by the district for any reason other than death, retirement, or attainment of the age at which his classification as a permanent employee ceases, he shall no longer be credited with or have any right to such accumulated amount, but the amount shall revert to and belong to the district. The arrangement under which

annuities and death benefits are paid by a district under this subdivision shall not be considered to be a local retirement system for the purposes of Sections 22000 to 24609, inclusive, nor shall such payments be taken into account in the calculation of retirement allowances under the State Teachers' Retirement System.

(c) The reserve fund created by the district from the assets delivered to it pursuant to former subdivision (c) of Section 14690 prior to its repeal is continued in existence and in the amount equal in amount to the total contributions credited to employees of the district, under former subdivision (b) of Section 14691 prior to its repeal, and the annuities and death benefits payable under former subdivision (b) of Section 14691 prior to its repeal shall continue to be paid from this reserve fund. If the reserve fund as first created proves insufficient to make the payments required under former subdivision (b), the district shall continue to make such additions to the reserve fund as may be necessary to provide for such payments.

(d) In addition to any other investments authorized by law for the investment of such funds, the funds of any specialized reserve or reserve fund established pursuant to former Section 14690 or former Section 14691 prior to their repeal may continue to be invested as authorized by Sections 31595 and 31595.4 of the Government Code for the investment of the funds of a county employees' retirement system.

The governing board may employ investment advisers to advise it on such investments and the fees for these services may be paid from the special reserve or reserve funds.

(e) The governing board may make additional cost-of-living adjustments in the payments to persons who retired prior to January 1, 1953.

#### CHAPTER 29. ADMINISTRATION, DISTRICT RETIREMENT SALARY PLAN

24800. All payments from the district retirement fund shall be made in the same manner as payments from school district funds but shall be subject to approval of the district retirement board. Warrants drawn on the fund shall be signed by at least one member of the district retirement board who shall be designated by the board.

The duties imposed upon the county treasurer shall be a part of his official duties, for the faithful performance of which he shall be liable upon his official bond.

24801. Any other provisions of law to the contrary notwithstanding, whenever any retirement benefits under a district retirement system payable solely by reason of death of the retired member to his estate, heir or beneficiary have been unclaimed for a period of four years from the date of notification, by the district retirement system, by means of United States mail, to the estate, heir or beneficiary, such funds shall revert to and become a part of the contributions of the district and shall be applied to reduce the cost

to the taxpayers of the district maintaining the retirement system.

The district retirement system may at any time after reversion of such benefits to the district and upon receipt of proper information satisfactory to it, return from district contributions, an amount equal to that which had, on account of such deceased member, reverted to the district.

24802. Any other provisions of law to the contrary notwithstanding, whenever any warrant drawn in payment of contributions or accumulated contributions or benefits under a district retirement system, remains unclaimed or the claimant cannot be found, the proceeds of such warrant shall be redeposited in the respective fund, or funds, from which they were derived, and held for the claimant, without further accumulation of interest, and such redeposit shall not operate to reinstate the membership of the claimant in the district retirement system. If said proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of redeposit, they shall revert to and become a part of the contributions of the district and shall be applied to reduce the cost to the taxpayers of the district maintaining the retirement system and on account of which said contributions were made.

The provisions of this section apply to warrants drawn under a district retirement system and which would become void under the provisions of Section 42660 or 85270.

The district retirement system may at any time, after the reversion of proceeds to the district maintaining the retirement system, and upon receipt of proper information satisfactory to it, return from district contributions, an amount equal to such proceeds, to the credit of the claimant to be administered in the manner prescribed under the district retirement system.

The deposit in such funds of the proceeds of unclaimed and unpaid warrants prior to September 7, 1955, in accordance with the procedure specified in this section, is hereby validated, ratified, and confirmed.

24803. If any benefit is payable by a district retirement system to the estate of a deceased person, whether because the estate is the beneficiary of the person or because no beneficiary was designated or because an allowance payable to the person had accrued and remained unpaid at the date of the death, and the estate would not be administered if no amount were due from said system, then such benefit shall be paid directly without procuring letters of administration to the surviving next of kin of the deceased, or the guardians of such survivors' estates, share and share alike.

Such payment shall be made in the same order in which the following groups are listed:

- (a) Husband or wife.
- (b) Children and issue of deceased children by right of representation.
- (c) Father and mother.
- (d) Brothers and sisters.

(e) Nieces and nephews.

Payment may also be made to such persons in the groups listed hereinabove to the extent such persons are the only beneficiaries under the last will and testament of a deceased former member of a district retirement system, without the probate of the will.

**24804.** Except in the case where the deceased former member of a district retirement system leaves a will, no payment shall be made to persons included in any group specified in Section 24803, if at the date of death of any person or persons to whom any benefit is payable by a district retirement system there are living persons in any of the groups preceding it, as listed. Payment to the persons in any group, upon receipt from them of an affidavit upon a form supplied by the system, that there were no surviving individuals in the groups preceding it, or that they are one of the beneficiaries in any group specified in Section 24803 under the will of the deceased former member, and that the estate of the deceased will not be administered, is in full discharge of the liability of the board and system on account of the death.

**24805.** Any other provision of the law to the contrary notwithstanding, whenever any member of the district retirement system dies while in active membership status, including those on a deferred membership status, or within four months after the termination of the member's employment in a status requisite for membership in the retirement system, benefits payable at death, unless a claim by someone other than the designated beneficiary or beneficiaries is filed with the retirement system during the period provided in this section, shall be paid to the beneficiary or beneficiaries designated by him on a form provided by the retirement system and on file in the office of the retirement system prior to the death of the member.

Payment to a beneficiary or beneficiaries designated in the form on file in the retirement system at the date of death by a warrant drawn prior to any claim under a will or under community property rights, shall constitute full discharge of any and all liability of the district retirement board and retirement system by reason of the member's death. The retirement system shall provide a 30-day claim period subsequent to notification of death before drawing a warrant in favor of the designated beneficiary or beneficiaries.

**24806.** (a) A district retirement salary plan established under Sections 24800 to 24812, inclusive, in any school district or districts, in which the average daily attendance of all districts combined is in excess of 200,000, governed by the same governing board may be discontinued by the governing board of the district or districts, with the consent of the majority of the active members of the system expressing their desires with respect to the discontinuance of the plan evidenced in such manner as the governing board may prescribe; but no discontinuance of any such retirement plan shall be effective for any purpose unless provision is made for retirement allowances for active and retired employees of the district as

provided in subdivisions (b), (c), (d), and (e) of this section.

(b) (1) Active and retired employees of the district or districts who otherwise would be members of such plan, other than teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System or who were so employed prior to retirement, shall be made members and beneficiaries, respectively, of the Public Employees' Retirement System according to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, including transfer to said system of the accumulated contributions of said employees, together with such other assets of said plan as may be determined.

(2) With respect to persons who are members of such plan at its discontinuance, it shall be provided in the contract making such employees members of the Public Employees' Retirement System, that their respective rates of contribution thereunder shall be based on the age at the nearest birthday at July 1, 1944, or at the respective later effective dates of their membership in such plan, all instead of the age at the nearest birthday at the effective date of membership in such employees' system.

(3) Each employee of the district or districts who is included in such contract, but who during all or part of his employment in a status requisite for membership in such plan was not a member thereof, because of his election under an available option, or who failed to redeposit upon reentry into membership contributions previously withdrawn, shall have the right to elect by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make such election is mailed by such system to the member's latest address on file in the office of such system, and prior to the date of retirement, to contribute to such system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his accumulated contributions, including interest, transferred as required in paragraph (1) of this subdivision (b), will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him in such plan, if he had never elected not to be a member thereof, or if he had redeposited such withdrawn contributions upon such reentry, as the case may be. Such employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to such system, beginning with the date of discontinuance of such plan at the rate of interest currently used from time to time under the system. If such employee elects to make, and makes such contributions, and pays such interest, but not otherwise, he shall receive credit under such employees' system, as state service, for all the service rendered while he was not a member of such plan, because of his optional exclusion, or for all service upon which the withdrawn contributions were based, and for the purpose of paragraph (2) shall be considered as

a member of such plan at its discontinuance and from November 1, 1937, or later beginning date of such service. Regardless of whether such contributions are made, such employee shall receive credit for service with which he was credited or would have been credited if he had been a member, as prior service under such plan. The contributions under this paragraph (3) shall be added to and administered in the same manner as the contributions transferred under paragraph (1) of this subdivision (b).

(4) Service rendered by active employees, who are made members of the Public Employees' Retirement System, prior to the assumption by the district or districts of the function under which the service was rendered, such as but not limited to cafeterias and student body activities, shall be credited under such employees' system; provided, such service qualified for credit under the discontinued plan.

(5) The contract making such active employees members of the Public Employees' Retirement System, shall include such employees with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement System, as provided in Section 20491 of the Government Code, and also with respect to service rendered in a status in which they are eligible for such membership, but which is no longer credited under such retirement system, and such service shall be credited in the same manner applicable to service otherwise qualifying for credit.

(6) Retirement allowances being paid under the discontinued plan to retired employees of the district or districts, who are made beneficiaries of the Public Employees' Retirement System, shall be changed by action of the governing board of such districts, effective at the discontinuance of such plan, to retirement allowances calculated on the basis of service used in the calculation of the respective allowances under such plan, and average annual salary earnable during the highest three consecutive years of creditable service, calculated according to the methods used at the date of discontinuance, under such plan in determining salary earnable, but excluding any salary based on overtime as provided in Section 20025.2 of the Government Code, but otherwise according to the formulae under such employees' system which apply to active employees who are made members thereof. Such changed allowances shall be paid to such beneficiaries for time commencing on the date they are made beneficiaries of such employees' system. No allowance shall be reduced by such change.

(7) If two or more districts under the control and management of a single governing board are participants in such plan, one contract between the board of administration and such governing board may include all such districts. The governing board may apportion the total contributions required under the contract, among the districts on the basis of total salaries upon which the contributions are computed, and on the basis of other pertinent information.

(8) Paragraph (1) of this subdivision notwithstanding, the

contract making such active employees members of the Public Employees' Retirement System, shall include teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System, with respect to service rendered in a status in which they would have been eligible for membership in the Public Employees' Retirement System, if such district or districts by which they were employed had been participating in that system under Part 3 of the Government Code of the State of California. Contributions deducted from salary earned by such employees in such service, together with credited interest, and standing to the credit of such employees at the effective date of discontinuance of such plan, shall be subject to the provisions of paragraph (1), in the same manner as they would have been so subject if said employees had been employed at the date of such discontinuance, in a status which was not requisite for such membership in the State Teachers' Retirement System. Such employees shall be members of the Public Employees' Retirement System with the same effect, but only with respect to such service, as if they had been employed in a status which would have qualified them for such membership under other paragraphs of this Section 24806. Such employees shall continue in such membership and shall be entitled to benefits in the same manner as if they individually were credited with at least five hundred dollars (\$500) in accumulated contributions. In the computation of such members' benefits under the Public Employees' Retirement System, their compensation earnable while they are members of the State Teachers' Retirement System shall be taken into consideration.

(c) Notwithstanding any other provisions of Sections 35161, 35162, 72200, 72201, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, this part, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19, of this division, and Part 25 (commencing with Section 44000) of Division 3 of Title 2, Chapter 1 (commencing with Section 87000), Article 3 (commencing with Section 87250) and Article 4 (commencing with Section 87270) of Chapter 2, Article 1 (commencing with Section 87400), Article 2 (commencing with Section 87600), Article 5 (commencing with Section 87700), and Article 8 (commencing with Section 87800), Chapter 4 (commencing with Section 88000), of Part 51 of Division 7 of Title 3, contributions to the discontinued district retirement plan made by teachers and other persons employed by the district or districts in a status requisite for membership in the State Teachers' Retirement System standing to their individual credit at the date of discontinuance of the district retirement plan shall be deposited forthwith in the Retirement Annuity Fund with credited interest, to be applied on the amount due from said teachers, but not to exceed the amount so due. Likewise an amount

equal to the actuarial equivalent of the annuity portion of the retirement allowance to which the respective retired teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System were entitled under said plan, based on the interest rate and mortality tables used in its determination, shall be deposited in the Retirement Annuity Fund, to be applied on the amount due from said respective retired teachers, but not to exceed the amount so due. Any excess of the contributions with credited interest or the actuarial equivalents, as the case may be, over the respective amounts due under said sections, shall be paid forthwith to the respective active and retired teachers and other persons. Further amounts, if any, due under said sections after said deposits, shall be paid to the Retirement Annuity Fund by the respective active and retired teachers and other persons. If any of such teachers or other persons who is not retired, is not entitled to credit under the State Teachers' Retirement System for all or part of his service credited under such plan, or if any of such retired teachers or other persons is not entitled to a retirement allowance from such system, either before or after such discontinuance, the provisions of this subdivision (c) about contributions and credited interest or about the actuarial equivalent of annuity portions of retirement allowances, as the case may be, shall not apply to him with respect to service which is not credited under such state system, until and unless he becomes entitled to credit for such service or to an allowance from such state system, based on service which was credited to him under the discontinued plan. The balance of the assets held in the various funds of the discontinued district retirement plan after the transfers, deposits and payments required by this section, or after establishment of reserves from which such transfers, deposits and payments shall be made, shall be delivered to the district or districts in which the plan is discontinued.

(d) The district or districts in which the district retirement plan is discontinued shall pay monthly to teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teacher's Retirement System who were retired prior to the date of such discontinuance an amount equal to the amount by which the retirement allowance to which any of said retired teachers or other persons was entitled under said plan exceeds the increase in said teacher's or other person's retirement allowance under the State Teachers' Retirement System resulting from said discontinuance. If the amount payable to any such teacher or other person, under the sentence next preceding, is less than two dollars (\$2), the district or districts may pay, in lieu of such amount, one amount which shall be actuarially equivalent to such monthly amount thereafter payable, according to the interest rate and mortality table used in the determination of the teacher's or other person's retirement allowance under the said district retirement plan. The payment of such actuarially equivalent amount shall

discharge fully the district's liability to such teacher or other person under this subdivision (d). The arrangement under which said amounts are paid by said district shall not be considered to be a local retirement system for the purposes of Chapter 1 (commencing with Section 22000) to Chapter 15 (commencing with Section 23400), inclusive, of this part, nor shall said amount be taken into account in the calculation of retirement allowances under the State Teachers' Retirement System. If any of such teachers or other persons is not entitled to a retirement allowance from the State Teachers' Retirement System, either before or after such discontinuance, such district or districts shall pay monthly to him, an amount equal to his retirement allowance under said plan prior to such discontinuance. If any teacher or other person has left the service of the district or districts, and is in a status under such plan, which if continued would qualify him for a retirement allowance without his return to such service, but is in a status otherwise which would not qualify him for retirement under such state system, such district or districts shall pay monthly to such teacher or other person, beginning at the date upon which he would have qualified for service retirement under such plan, an amount equal to the retirement allowance for which he would have qualified if such plan had not been discontinued. If any teacher or other person has credit under such plan for service which does not qualify for credit under either the State Teachers' Retirement System or State Employees' Retirement System, such district or districts shall pay monthly to such teacher or other person, beginning on the date upon which he would have qualified for service retirement under such plan, an amount equal to the retirement allowance for which he would have qualified on the basis of such service if such plan had not been discontinued. If such individual at a later date becomes entitled to a retirement allowance from such state system, based on such service which was credited to him under the discontinued plan, such monthly payments shall cease, and he shall become subject forthwith to the provisions of subdivision (c) of this section, and the provisions of the first four sentences of this subdivision (d), in the same manner as he would have been subject, if he had been entitled to such a retirement allowance at the date of discontinuance, but calculation of actuarial equivalents and amounts payable shall be made as of the later date.

(e) If any person who was retired prior to such discontinuance from a position requisite for membership in the State Teachers' Retirement System, under a district retirement salary plan which is discontinued pursuant to this section, elected either under such plan or under such system, but not under both, to have retirement allowance modified according to an option under which he would receive a smaller allowance and provide a benefit for his beneficiary, such person shall have the right, to be exercised not later than sixty (60) days after the discontinuance of such plan to change his election under the State Teachers' Retirement System with respect to said options. Any computations of actuarial equivalent under a changed

election shall be made as of the date of discontinuance of the plan, and no adjustment shall be included in the computation on account of retirement allowance payments made prior to that date.

(Amended by Stats 1976, Ch 1011 )

[ORIGINAL SECTION]

24806 (a) A district retirement salary plan established under Sections 24800 to 24812, inclusive, in any school district or districts, in which the average daily attendance of all districts combined is in excess of 200,000, governed by the same governing board may be discontinued by the governing board of the district or districts, with the consent of the majority of the active members of the system expressing their desires with respect to the discontinuance of the plan evidenced in such manner as the governing board may prescribe; but no discontinuance of any such retirement plan shall be effective for any purpose unless provision is made for retirement allowances for active and retired employees of the district as provided in subdivisions (b), (c), (d), and (e) of this section

(b) (1) Active and retired employees of the district or districts who otherwise would be members of such plan, other than teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System or who were so employed prior to retirement, shall be made members and beneficiaries, respectively, of the Public Employees' Retirement System according to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, including transfer to said system of the accumulated contributions of said employees, together with such other assets of said plan as may be determined

(2) With respect to persons who are members of such plan at its discontinuance, it shall be provided in the contract making such employees members of the Public Employees' Retirement System, that their respective rates of contribution thereunder shall be based on the age at the nearest birthday at July 1, 1944, or at the respective later effective dates of their membership in such plan, all instead of the age at the nearest birthday at the effective date of membership in such employees' system

(3) Each employee of the district or districts who is included in such contract, but who during all or part of his employment in a status requisite for membership in such plan was not a member thereof, because of his election under an available option, or who failed to redeposit upon reentry into membership contributions previously withdrawn, shall have the right to elect by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make such election is mailed by such system to the member's latest address on file in the office of such system, and prior to the date of retirement, to contribute to such system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his accumulated contributions, including interest, transferred as required in paragraph (1) of this subdivision (b), will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him in such plan, if he had never elected not to be a member thereof, or if he had redeposited such withdrawn contributions upon such reentry, as the case may be. Such employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to such system, beginning with the date of discontinuance of such plan at the rate of interest currently used from time to time under the system. If such employee elects to make, and makes such contributions, and pays such interest, but not otherwise, he shall receive credit under such employees' system, as state service, for all the service rendered while he was not a member of such plan, because of his optional exclusion, or for all service upon which the withdrawn contributions were based, and for the purpose of paragraph (2) shall be considered as a member of such plan at its discontinuance and from November 1, 1937, or later beginning date of such service. Regardless of whether such contributions are made, such employee shall receive credit for service with which he was credited or would have been credited if he had been a member, as prior service under such plan. The contributions under this paragraph (3) shall be added to and administered in the same manner as the

contributions transferred under paragraph (1) of this subdivision (b)

(4) Service rendered by active employees, who are made members of the Public Employees' Retirement System, prior to the assumption by the district or districts of the function under which the service was rendered, such as but not limited to cafeterias and student body activities, shall be credited under such employees' system, provided, such service qualified for credit under the discontinued plan

(5) The contract making such active employees members of the Public Employees' Retirement System, shall include such employees with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement System, as provided in Section 20491 of the Government Code, and also with respect to service rendered in a status in which they are eligible for such membership, but which is no longer credited under such retirement system, and such service shall be credited in the same manner applicable to service otherwise qualifying for credit.

(6) Retirement allowances being paid under the discontinued plan to retired employees of the district or districts, who are made beneficiaries of the Public Employees' Retirement System, shall be changed by action of the governing board of such districts, effective at the discontinuance of such plan, to retirement allowances calculated on the basis of service used in the calculation of the respective allowances under such plan, and average annual salary earnable during the highest three consecutive years of creditable service, calculated according to the methods used at the date of discontinuance, under such plan in determining salary earnable, but excluding any salary based on overtime as provided in Section 20025.2 of the Government Code, but otherwise according to the formulae under such employees' system which apply to active employees who are made members thereof. Such changed allowances shall be paid to such beneficiaries for time commencing on the date they are made beneficiaries of such employees' system. No allowance shall be reduced by such change.

(7) If two or more districts under the control and management of a single governing board are participants in such plan, one contract between the board of administration and such governing board may include all such districts. The governing board may apportion the total contributions required under the contract, among the districts on the basis of total salaries upon which the contributions are computed, and on the basis of other pertinent information.

(8) Paragraph (1) of this subdivision notwithstanding, the contract making such active employees members of the Public Employees' Retirement System, shall include teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System, with respect to service rendered in a status in which they would have been eligible for membership in the Public Employees' Retirement System, if such district or districts by which they were employed had been participating in that system under Part 3 of the Government Code of the State of California. Contributions deducted from salary earned by such employees in such service, together with credited interest, and standing to the credit of such employees at the effective date of discontinuance of such plan, shall be subject to the provisions of paragraph (1), in the same manner as they would have been so subject if said employees had been employed at the date of such discontinuance, in a status which was not requisite for such membership in the State Teachers' Retirement System. Such employees shall be members of the Public Employees' Retirement System with the same effect, but only with respect to such service, as if they had been employed in a status which would have qualified them for such membership under other paragraphs of this Section 24806. Such employees shall continue in such membership and shall be entitled to benefits in the same manner as if they individually were credited with at least five hundred dollars (\$500) in accumulated contributions. In the computation of such members' benefits under the Public Employees' Retirement System, their compensation earnable while they are members of the State Teachers' Retirement System shall be taken into consideration.

(c) Notwithstanding any other provisions of Sections 35161, 35162, 72200, 72201, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Article 1

(commencing with Section 12500) of Chapter 5 of Part 8, this part, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19, of this division, and Part 25 (commencing with Section 44000) of Division 3 of Title 2, Chapter 1 (commencing with Section 87000), Article 3 (commencing with Section 87250) and Article 4 (commencing with Section 87270) of Chapter 2, Article 1 (commencing with Section 87400), Article 2 (commencing with Section 87600), Article 5 (commencing with Section 87700), and Article 8 (commencing with Section 87800), Chapter 4 (commencing with Section 88000), of Part 51 of Division 7 of Title 3, contributions to the discontinued district retirement plan made by teachers and other persons employed by the district or districts in a status requisite for membership in the State Teachers' Retirement System standing to their individual credit at the date of discontinuance of the district retirement plan shall be deposited forthwith in the Retirement Annuity Fund with credited interest, to be applied on the amount due from said teachers and other persons under Section \_\_\_\_\_ of this code, but not to exceed the amount so due Likewise an amount equal to the actuarial equivalent of the annuity portion of the retirement allowance to which the respective retired teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System were entitled under said plan, based on the interest rate and mortality tables used in its determination, shall be deposited in the Retirement Annuity Fund, to be applied on the amount due from said respective retired teachers and other persons under Section \_\_\_\_\_, but not to exceed the amount so due Any excess of the contributions with credited interest or the actuarial equivalents, as the case may be, over the respective amounts due under said sections, shall be paid forthwith to the respective active and retired teachers and other persons Further amounts, if any, due under said sections after said deposits, shall be paid to the Retirement Annuity Fund by the respective active and retired teachers and other persons If any of such teachers or other persons who is not retired, is not entitled to credit under the State Teachers' Retirement System for all or part of his service credited under such plan, or if any of such retired teachers or other persons is not entitled to a retirement allowance from such system, either before or after such discontinuance, the provisions of this subdivision (c) about contributions and credited interest or about the actuarial equivalent of annuity portions of retirement allowances, as the case may be, shall not apply to him with respect to service which is not credited under such state system, until and unless he becomes entitled to credit for such service or to an allowance from such state system, based on service which was credited to him under the discontinued plan The balance of the assets held in the various funds of the discontinued district retirement plan after the transfers, deposits and payments required by this section, or after establishment of reserves from which such transfers, deposits and payments shall be made, shall be delivered to the district or districts in which the plan is discontinued

(d) The district or districts in which the district retirement plan is discontinued shall pay monthly to teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System who were retired prior to the date of such discontinuance an amount equal to the amount by which the retirement allowance to which any of said retired teachers or other persons was entitled under said plan exceeds the increase in said teacher's or other person's retirement allowance under the State Teachers' Retirement System resulting from said discontinuance If the amount payable to any such teacher or other person, under the sentence next preceding, is less than two dollars (\$2), the district or districts may pay, in lieu of such amount, one amount which shall be actuarially equivalent to such monthly amount thereafter payable, according to the interest rate and mortality table used in the determination of the teacher's or other person's retirement allowance under the said district retirement plan The payment of such actuarially equivalent amount shall discharge fully the district's liability to such teacher or other person under this subdivision (d). The arrangement under which said amounts are paid by said district shall not be considered to be a local retirement system for the purposes of Chapter 1 (commencing with Section 22000) to Chapter 15 (commencing with Section 23400), inclusive, of this part, nor shall said amount be taken into account in the calculation of retirement allowances under the State Teachers' Retirement System If any of such teachers or other persons is not

entitled to a retirement allowance from the State Teachers' Retirement System, either before or after such discontinuance, such district or districts shall pay monthly to him, an amount equal to his retirement allowance under said plan prior to such discontinuance. If any teacher or other person has left the service of the district or districts, and is in a status under such plan, which if continued would qualify him for a retirement allowance without his return to such service, but is in a status otherwise which would not qualify him for retirement under such state system, such district or districts shall pay monthly to such teacher or other person, beginning at the date upon which he would have qualified for service retirement under such plan, an amount equal to the retirement allowance for which he would have qualified if such plan had not been discontinued. If any teacher or other person has credit under such plan for service which does not qualify for credit under either the State Teachers' Retirement System or State Employees' Retirement System, such district or districts shall pay monthly to such teacher or other person, beginning on the date upon which he would have qualified for service retirement under such plan, an amount equal to the retirement allowance for which he would have qualified on the basis of such service if such plan had not been discontinued. If such individual at a later date becomes entitled to a retirement allowance from such state system, based on such service which was credited to him under the discontinued plan, such monthly payments shall cease, and he shall become subject forthwith to the provisions of subdivision (c) of this section, and the provisions of the first four sentences of this subdivision (d), in the same manner as he would have been subject, if he had been entitled to such a retirement allowance at the date of discontinuance, but calculation of actuarial equivalents and amounts payable shall be made as of the later date.

(e) If any person who was retired prior to such discontinuance from a position requisite for membership in the State Teachers' Retirement System, under a district retirement salary plan which is discontinued pursuant to this section, elected either under such plan or under such system, but not under both, to have retirement allowance modified according to an option under which he would receive a smaller allowance and provide a benefit for his beneficiary, such person shall have the right, to be exercised not later than sixty (60) days after the discontinuance of such plan to change his election under the State Teachers' Retirement System with respect to said options. Any computations of actuarial equivalent under a changed election shall be made as of the date of discontinuance of the plan, and no adjustment shall be included in the computation on account of retirement allowance payments made prior to that date.

**24807.** The balance of the assets delivered to the district pursuant to subdivision (c) of Section 24806, after the transfers, deposits and payments required by such section, or after establishment of reserves from which such deposits and payments shall be made, shall be allocated and distributed as follows:

(a) Sixty-five percent of such balance shall be distributed to the undistributed reserve of the general fund of the district to be reduced to cash as necessary and appropriated in any year by majority vote of the governing board. Until the balance of the assets has been reduced to cash, the governing board may invest and reinvest the assets in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the governing board any sale and reinvestment is advisable. Ten percent of this amount shall be used only for maintenance operation.

(b) Twenty percent of such balance shall be transferred to a special account in the undistributed reserve of the district's general fund to be reduced to cash as necessary in order to be used only for the purpose of reducing the tax collected pursuant to Section 23401 in order to provide the contributions required by Section 23400 to the

Teacher's Retirement Fund. In the event that the special account is not wholly distributed for the purpose of making such contribution, the balance in the special account shall be released to the undistributed reserve. Until the balance of the assets has been reduced to cash, the governing board may invest and reinvest the assets in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the governing board any sale and reinvestment is advisable.

(c) Fifteen percent of such balance shall be held intact by the district in an annuity reserve fund from which shall be provided a supplementary annuity at time of retirement under any California public retirement system to or on behalf of those members of the local district retirement system who were on the active roll or members on the retired roll of such local district retirement system as of June 30, 1972, and those members added to the active and retired rolls between June 30, 1972, and any later date of discontinuance, and those probationary or permanent certificated employees of the district holding memberships in California public retirement systems other than the local district retirement system who are making contributions to such systems on June 30, 1972, or on any later date of discontinuance. The supplement annuity may be paid in lump sum or in installments for the life of the person eligible, or his beneficiary, after his retirement.

No such participant in the annuity reserve fund shall have vested rights to the benefits of this annuity reserve fund until he has continued in active service for a period of five years from the date of discontinuance of the local district retirement system, except participants who have separated from service by reason of retirement, including deferred retirement, or death.

An account shall be opened in the name of each person eligible to participate in the benefits of the annuity reserve fund to which shall be credited his share of the annuity reserve fund. The individual participant's share of this fund shall bear the same ratio to the total of this fund as his annuity savings contributions, including interest earned, to the retirement system, to which he is making annuity contributions as of June 30, 1972, or any later date of discontinuance, or, if a retired member, the date of retirement prior to June 30, 1972, bears to the total annuity savings contributions, including interest earned, of all such participants in the retirement systems to which they are making contributions at the date of discontinuance, including total contributions to the local district retirement system previously made by living members on the retired roll. The fund shall include principal and interest in the account of any participant forfeited because said participant separated from service, except by reason of retirement, including deferred retirement, or death, within five years from June 30, 1972, or other date of discontinuance. Such forfeiture shall be treated as earnings of the fund.

As of June 30 each year, the earnings of the preceding 12 months less administrative expense shall be credited to the accounts of the

remaining participants in the annuity reserve fund on the ratio that the participant's individual account balance bears to the total balance of the annuity reserve fund. The cost of administering the fund shall be charged against the assets of the fund, as approved by the governing board of the school district.

If a participant separates from service prior to June 30, of any year, the earnings since the preceding June 30 shall remain in the fund. Any member whose accumulated contributions to the local retirement system exceed the amount required by law to be deposited by the member in the State Teachers' Retirement System's Annuity Fund upon discontinuance of the local system may deposit to his credit all or part of such excess amount in the annuity reserve fund.

The governing board of the school district which maintained the discontinued local district retirement system shall establish an annuity reserve fund board of not more than seven members, the majority of whom shall be composed of certificated employees who are participants in the annuity reserve fund. The certificated employees on the annuity reserve fund board shall be elected by participants in the annuity reserve fund. The annuity reserve fund board shall have the authority to make rules and regulations necessary for the management of the annuity reserve fund in accordance with modern business practice. The local district retirement board shall continue to function as the annuity reserve board pending its establishment.

Annuity reserve fund board shall invest the funds in securities which are legal for the investment of funds of the State Teachers' Retirement System and shall sell the securities and reinvest the proceeds in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the annuity reserve fund board any sale and reinvestment is advisable.

All securities and cash of the annuity reserve fund shall be held in a trust fund in the county treasury. The county treasurer, as one of his official duties, shall be a member ex officio of the annuity reserve fund board established to invest the assets of this fund.

Any funds raised for the support of the local district retirement system and not appropriated to any specific account shall be transferred to the annuity reserve fund. All payments from the district's annuity reserve fund shall be made in the same manner as payments from school district funds.

The annuity reserve fund board may, at its discretion, request the district governing board to hold an election among existing annuity reserve fund participants as to whether the board should distribute existing funds in the annuity fund. The annuity reserve fund board may prescribe all rules and regulations regarding such an election and is authorized to distribute such funds if a majority of such members so elect.

24808. The governing board may provide that members of the annuity reserve fund board be paid fifty dollars (\$50) for each

meeting, not to exceed one meeting each month, when they are not being paid by the governing board for any other assignment at the time of the meeting. The compensation shall be a charge against the annuity reserve fund.

24809. The assets of the annuity reserve fund invested in common stocks or shares shall not exceed the percentage of annuity reserved fund assets so invested as of June 30, 1973, or 25 percent of the total assets of the fund whichever is lower. The assets invested in preferred stocks or shares shall not exceed 5 percent of the total assets of the fund. For the purposes of this section, valuation of fund assets, common stocks or shares, and preferred stocks or shares shall be determined on the basis of cost to the annuity reserve fund.

24810. (a) Notwithstanding the provisions of Section 24806, persons other than (1) teachers and (2) other persons employed in a status requisite for membership in the State Teachers' Retirement System, who are active or retired members of a district retirement salary plan established under Sections 24800 to 24812, inclusive, in any school district or districts in which the average daily attendance of all districts combined is in excess of 200,000, governed by the same governing board, may be transferred by the governing board of the district or districts, with the consent of the majority of such active members of the plan expressing their desires with respect to the transfer evidenced in such manner as the governing board may prescribe; but no transfer of such active and retired members shall be effective for any purpose unless provision is made for retirement allowances for active and retired employees of the district as provided in subdivision (b) of this section.

(b) (1) Active and retired employees, including future employees, of the district or districts who otherwise would be members of such plan, persons who are members of the district's retirement salary plan, and persons who were employees on June 30, 1957, and who attained age 65 or over during the 12 months immediately preceding July 1, 1957, other than teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System or who were so employed prior to retirement, shall be made members and beneficiaries, respectively, of the Public Employees' Retirement System according to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, including transfer to said system of the accumulated contributions of said members, together with such other assets of said plan as may be determined. The total of such other assets transferred, however, shall not be greater than the portion of the reserves of such plan which is allocable to such active and retired employees, as determined by actuarial valuation. In such valuation the portion of the reserves allocable to such active and retired employees proposed to be transferred shall be determined as an amount which bears the same ratio to the total reserves under such plan as the liabilities under the plan on account of such active and retired employees bear to the total liabilities under the plan on

account of all active and retired employees thereunder. On the effective date of the contract making such active employees members of the Public Employees' Retirement System, such employees shall cease to be members of such plan, and neither they nor retired persons who are made beneficiaries of such state system, shall be paid or have any right to any allowance or other benefit under such plan for time beginning with said effective date.

(2) With respect to persons who are members of such plan at such transfer, it shall be provided in the contract making such employees members of the Public Employees' Retirement System, that their respective rates of contribution thereunder shall be based on the age at the nearest birthday at July 1, 1944, or at the respective later effective dates of their membership in such plan, all instead of the age at the nearest birthday at the effective date of membership in such employees' system.

(3) Each employee of the district or districts who is included in such contract, but who during all or part of his employment in a status requisite for membership in such plan was not a member thereof, because of his election under an available option, or who, while employed in a status not requisite for membership in such plan, was a member of the State Teachers' Retirement System and was contributing to that system, or who did not redeposit upon reentry into membership contributions previously withdrawn, shall have the right to elect by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make such election is mailed by such system either to the member's latest address on file in the office of such system, or to the office of the governing board of such district or districts, and prior to the date of retirement, to contribute to such system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his accumulated contributions, including interest, transferred as required in paragraph (1) of this subdivision (b), will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him in such plan, if he had never elected not to be a member thereof, or if he had been a member of such plan during the time he was a member of such State Teachers' Retirement System and was contributing thereto, or if he had redeposited such withdrawn contributions upon such reentry, as the case may be. Such employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to such system, beginning with the date of transfer, at the rate of interest currently used from time to time under the system. If such employee elects to make, and makes such contributions, and pays such interest, but not otherwise, he shall receive credit under such employees' system, as state service, for all the service rendered while he was not a member of such plan, because of his optional exclusion, or for service rendered while he

was contributing to such State Teachers' Retirement System; provided, such service is no longer credited under such teachers' system, or for all service upon which the withdrawn contributions were based, and for the purpose of paragraph (2) shall be considered as a member of such plan at such transfer and from November 1, 1937, or later beginning date of such service. Regardless of whether such contributions are made, such employees shall receive credit for service with which he was credited or would have been credited if he had been a member, as prior service under such plan. The contributions under this paragraph (3) shall be added to and administered in the same manner as the contributions transferred under paragraph (1) of this subdivision (b).

(4) Service rendered by active employees who are made members of the Public Employees' Retirement System prior to or after the assumption by the district or districts of the function under which the service was rendered, but prior to the effective date of the contract making active employees such members, and the compensation for which was paid wholly or in part from funds other than the funds of the district or districts, shall be credited under such employees' system, provided such service qualified for credit under such plan.

(5) The contract making such active employees members of the Public Employees' Retirement System, shall include such employees with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement System, as provided in Section 20491 of the Government Code, and also with respect to service rendered in a status in which they are eligible for such membership, but which is no longer credited under such teachers' retirement system, and such service shall be credited in the manner applicable to service otherwise qualifying for credit.

(6) Retirement allowances being paid under such plan to retired employees of the district or districts, who are made beneficiaries of the Public Employees' Retirement System, shall be changed by action of the governing board of such district, effective at such transfer, to retirement allowances calculated on the basis of service used in the calculation of the respective allowances under such plan, and average annual salary earnable during the highest three consecutive years of creditable service, calculated according to the methods used at the date of transfer, under such plan in determining salary earnable, but excluding any salary based on overtime as provided in Section 20025.2 of the Government Code, but otherwise according to the formulae under such employees' system which apply to active employees who are made members thereof. Such changed allowances shall be paid to such beneficiaries for time commencing on the date they are made beneficiaries of such employees' system. No allowance shall be reduced by such change.

(7) If two or more districts under the control and management of a single governing board are participants in such plan, one contract between the board of administration and such governing board may

include all such districts. The governing board may apportion the total contributions required under the contract, among the districts on the basis of total salaries upon which the contributions are computed, and on the basis of other pertinent information.

(8) The contract making such active employees members of the Public Employees' Retirement System shall provide that the service included in the calculation of the completed years of service as a basis for the portion of the basic death benefit provided in subdivision (b) of Section 21361 of the Government Code for persons who were members of such plan at transfer, shall not be limited to service under the Public Employees' Retirement System, but instead that service rendered as members of such plan shall also be included.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

24810. (a) Notwithstanding the provisions of Section 24806, persons other than (1) teachers and (2) other persons employed in a status requisite for membership in the State Teachers' Retirement System, who are active or retired members of a district retirement salary plan established under Sections 24800 to 24812, inclusive, in any school district or districts in which the average daily attendance of all districts combined is in excess of 200,000, governed by the same governing board, may be transferred by the governing board of the district or districts, with the consent of the majority of such active members of the plan expressing their desires with respect to the transfer evidenced in such manner as the governing board may prescribe, but no transfer of such active and retired members shall be effective for any purpose unless provision is made for retirement allowances for active and retired employees of the district as provided in subdivision (b) of this section.

(b) (1) Active and retired employees, including future employees, of the district or districts who otherwise would be members of such plan, persons who are members of the district's retirement salary plan under Section \_\_\_\_\_, and persons who were employees on June 30, 1957, and who attained age 65 or over during the 12 months immediately preceding July 1, 1957, other than teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System or who were so employed prior to retirement, shall be made members and beneficiaries, respectively, of the Public Employees' Retirement System according to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, including transfer to said system of the accumulated contributions of said members, together with such other assets of said plan as may be determined. The total of such other assets transferred, however, shall not be greater than the portion of the reserves of such plan which is allocable to such active and retired employees, as determined by actuarial valuation. In such valuation the portion of the reserves allocable to such active and retired employees proposed to be transferred shall be determined as an amount which bears the same ratio to the total reserves under such plan as the liabilities under the plan on account of such active and retired employees bear to the total liabilities under the plan on account of all active and retired employees thereunder. On the effective date of the contract making such active employees members of the Public Employees' Retirement System, such employees shall cease to be members of such plan, and neither they nor retired persons who are made beneficiaries of such state system, shall be paid or have any right to any allowance or other benefit under such plan for time beginning with said effective date.

(2) With respect to persons who are members of such plan at such transfer, it shall be provided in the contract making such employees members of the Public Employees' Retirement System, that their respective rates of contribution thereunder shall be based on the age at the nearest birthday at July 1, 1944, or at the respective later effective dates of their membership in such plan, all instead of the age at the nearest birthday at the effective date of membership in such employees' system.

(3) Each employee of the district or districts who is included in such contract, but

who during all or part of his employment in a status requisite for membership in such plan was not a member thereof, because of his election under an available option, or who, while employed in a status not requisite for membership in such plan, was a member of the State Teachers' Retirement System and was contributing to that system, or who did not redeposit upon reentry into membership contributions previously withdrawn, shall have the right to elect by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make such election is mailed by such system either to the member's latest address on file in the office of such system, or to the office of the governing board of such district or districts, and prior to the date of retirement, to contribute to such system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his accumulated contributions, including interest, transferred as required in paragraph (1) of this subdivision (b), will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him in such plan, if he had never elected not to be a member thereof, or if he had been a member of such plan during the time he was a member of such State Teachers' Retirement System and was contributing thereto, or if he had redeposited such withdrawn contributions upon such reentry, as the case may be. Such employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to such system, beginning with the date of transfer, at the rate of interest currently used from time to time under the system. If such employee elects to make, and makes such contributions, and pays such interest, but not otherwise, he shall receive credit under such employees' system, as state service, for all the service rendered while he was not a member of such plan, because of his optional exclusion, or for service rendered while he was contributing to such State Teachers' Retirement System; provided, such service is no longer credited under such teachers' system, or for all service upon which the withdrawn contributions were based, and for the purpose of paragraph (2) shall be considered as a member of such plan at such transfer and from November 1, 1937, or later beginning date of such service. Regardless of whether such contributions are made, such employees shall receive credit for service with which he was credited or would have been credited if he had been a member, as prior service under such plan. The contributions under this paragraph (3) shall be added to and administered in the same manner as the contributions transferred under paragraph (1) of this subdivision (b).

(4) Service rendered by active employees who are made members of the Public Employees' Retirement System prior to or after the assumption by the district or districts of the function under which the service was rendered, but prior to the effective date of the contract making active employees such members, and the compensation for which was paid wholly or in part from funds other than the funds of the district or districts, shall be credited under such employees' system, provided such service qualified for credit under such plan.

(5) The contract making such active employees members of the Public Employees' Retirement System, shall include such employees with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement System, as provided in Section 20491 of the Government Code, and also with respect to service rendered in a status in which they are eligible for such membership, but which is no longer credited under such teachers' retirement system, and such service shall be credited in the manner applicable to service otherwise qualifying for credit.

(6) Retirement allowances being paid under such plan to retired employees of the district or districts, who are made beneficiaries of the Public Employees' Retirement System, shall be changed by action of the governing board of such district, effective at such transfer, to retirement allowances calculated on the basis of service used in the calculation of the respective allowances under such plan, and average annual salary earnable during the highest three consecutive years of creditable service, calculated according to the methods used at the date of transfer, under such plan in determining salary earnable, but excluding any salary based on overtime as provided in Section 20025 2 of the Government Code, but otherwise according to the formulae under such employees' system which apply to active employees who are made members thereof.

Such changed allowances shall be paid to such beneficiaries for time commencing on the date they are made beneficiaries of such employees' system. No allowance shall be reduced by such change.

(7) If two or more districts under the control and management of a single governing board are participants in such plan, one contract between the board of administration and such governing board may include all such districts. The governing board may apportion the total contributions required under the contract, among the districts on the basis of total salaries upon which the contributions are computed, and on the basis of other pertinent information.

(8) The contract making such active employees members of the Public Employees' Retirement System shall provide that the service included in the calculation of the completed years of service as a basis for the portion of the basic death benefit provided in subdivision (b) of Section 21361 of the Government Code for persons who were members of such plan at transfer, shall not be limited to service under the Public Employees' Retirement System, but instead that service rendered as members of such plan shall also be included.

24811. If two or more districts have been included in one contract between the Board of Administration of the State Employees' Retirement System, and the governing board of said districts, as provided in paragraph (7) of subdivision (b) of Section 24810, and if, since such inclusion, two or more of such districts have been combined into a unified district, the unified district, by amendment to said contract, may, notwithstanding the provisions of Section 20580 of the Government Code, be substituted therein for the districts so combined, and for all purposes of said contract.

24812. If two districts, one of which is a community college district, have been included in one contract between the Board of Administration of the Public Employees' Retirement System and the governing board of said districts, as provided in paragraph (7) of subdivision (b) of Section 24810 of the Education Code, and thereafter members of the governing board of the community college district are precluded by law from serving as members of the governing body of the other district, such contract shall be deemed a separate contract as to each district. The Board of Administration of the Public Employees' Retirement System shall determine the accumulated contributions held for or as having been made by each district and its employees, and shall credit such contributions to the respective contracts. Benefits based on all service of an employee to the districts prior to the date upon which employees' elections to serve the respective districts are effective shall be a liability of the contract of the district employing such person on such effective date. A person retired prior to such effective date shall, for all purposes of this section, be deemed an employee of the district other than the community college district.

24813. (a) The contract executed under the provisions of Section 24810, and making persons other than teachers and other persons employed in a status requisite for membership in the State Teachers' Retirement System, who are active or retired members of a district retirement salary plan established under Sections 24800 to 24812, inclusive, members and beneficiaries of the State Employees' Retirement System, shall be amended to include as members or

beneficiaries, teachers and other persons who were employed in a status requisite for membership in the State Teachers' Retirement System, who ceased to be members of such plan if it was discontinued, or if such plan was not discontinued, who resign instead of retiring and are refunded their accumulated contributions under that plan, or who retire or have retired under such district plan and relinquish or have relinquished their right to allowances from such plan with credit for service rendered in a status in which they would have been eligible for membership in the State Employees' Retirement System, if such district or districts by which they were employed had been participating in that system under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, but only if such service qualified for credit under such plan and is not credited under any other retirement system.

(b) Such service of a person who so ceased to be a member, or resigns or has resigned instead of retiring, or who relinquishes or has relinquished, as the case may be, shall be administered under such contract in exactly the same manner as that applied to service of persons who were retired under the local retirement system at the effective date of such contract, and were made beneficiaries, or who were not retired and were made members of such system on that date. The retirement allowances being received by such relinquishing persons, on account of service which would have been credited under the State Employees' Retirement System as stated, shall be adjusted in the same manner that allowances were adjusted under paragraph (6) of subdivision (b) of Section 24810. Any member who is credited with service in accordance with this section, shall pay to the State Employees' Retirement System, at times and in the manner fixed by the board of administration of that system, an amount equal to contributions with interest, which such member received as a refund from such plan, and which were based on service so credited, plus interest from the date of refund to the date of such payment, at the interest rate in effect under such system at such date of payment. Contributions required of such district or districts shall be determined by proper valuation, and the contributions set forth in said contract shall be adjusted accordingly.

(c) A retirement allowance based on such credited service shall be payable and retirement shall become effective, under the State Employees' Retirement System beginning on the first day of the month next following the effective date of this section, in the case of a person who then is retired under the State Teachers' Retirement System, or otherwise on the later effective date of the member's retirement under such teachers' system. The allowance shall be based on the person's age when the allowance begins, and on the same average salary as that upon which his allowance under the State Teachers' Retirement System, is based.

(Amended by Stats. 1976, Ch 1011 )

## [ORIGINAL SECTION]

24813 (a) The contract executed under the provisions of Section 24810, and making persons other than teachers and other persons employed in a status requisite for membership in the State Teachers' Retirement System, who are active or retired members of a district retirement salary plan established under Sections 24800 to 24812, inclusive, members and beneficiaries of the State Employees' Retirement System, shall be amended to include as members or beneficiaries, teachers and other persons who were employed in a status requisite for membership in the State Teachers' Retirement System, who ceased to be members of such plan if it was discontinued, or if such plan was not discontinued, who resign instead of retiring and are refunded their accumulated contributions under that plan, or who retire or have retired under such district plan and relinquish or have relinquished their right to allowances from such plan, as permitted by Section \_\_\_\_\_, with credit for service rendered in a status in which they would have been eligible for membership in the State Employees' Retirement System, if such district or districts by which they were employed had been participating in that system under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, but only if such service qualified for credit under such plan and is not credited under any other retirement system.

(b) Such service of a person who so ceased to be a member, or resigns or has resigned instead of retiring, or who relinquishes or has relinquished, as the case may be, shall be administered under such contract in exactly the same manner as that applied to service of persons who were retired under the local retirement system at the effective date of such contract, and were made beneficiaries, or who were not retired and were made members of such system on that date. The retirement allowances being received by such relinquishing persons, on account of service which would have been credited under the State Employees' Retirement System as stated, shall be adjusted in the same manner that allowances were adjusted under paragraph (6) of subdivision (b) of Section 24810. Any member who is credited with service in accordance with this section, shall pay to the State Employees' Retirement System, at times and in the manner fixed by the board of administration of that system, an amount equal to contributions with interest, which such member received as a refund from such plan, and which were based on service so credited, plus interest from the date of refund to the date of such payment, at the interest rate in effect under such system at such date of payment. Contributions required of such district or districts shall be determined by proper valuation, and the contributions set forth in said contract shall be adjusted accordingly.

(c) A retirement allowance based on such credited service shall be payable and retirement shall become effective, under the State Employees' Retirement System beginning on the first day of the month next following the effective date of this section, in the case of a person who then is retired under the State Teachers' Retirement System, or otherwise on the later effective date of the member's retirement under such teachers' system. The allowance shall be based on the person's age when the allowance begins, and on the same average salary as that upon which his allowance under the State Teachers' Retirement System, is based.

## CHAPTER 30. JOINT DISTRICT SALARY RETIREMENT PLAN

## Article 1. Establishment of Plan

24900. The governing boards of two or more school districts, in none of which the employees are entitled to the benefits of a pension or retirement system maintained by a city, city and county, or county in which the district, or a part thereof, is located, meeting in joint session, may in their discretion, submit to the qualified electors of the districts, and upon petition signed by not less than 10 percent of the qualified electors of each district the governing boards shall submit to the qualified electors of the districts the proposition of establishing

a joint plan for a retirement salary to be paid by the districts to all teachers fulfilling the requirements of the plan in the public schools of the districts and to such other employees of the districts as the governing boards may determine, or, in the case of a petition, such other employees as may be specified in the petition, and to provide, out of funds of the districts, a portion of the cost thereunder, including expenses incident to the administration of the plan.

24901. The proposition of establishing the plan may be submitted to the electors of the districts at any general or special election called and held in the districts, as the governing boards of the districts may determine. The governing boards of the school districts may order the elections which shall be called and held in accordance with the provisions of Chapter 3 (commencing with Section 5300) of this division.

24902. The governing boards calling the election shall consolidate the election and submit to the electors of the respective districts on the same day the question of whether a district retirement plan shall be established in the districts. Within the territory affected by the order of consolidation, the election precinct polling places and voting booths shall, in every case, be the same. There shall be only one set of election officers in each precinct. The propositions to be voted upon within the respective districts may be set forth on one ticket or ballot. All proceedings had in the premises shall be recorded in one set of election papers, and the election shall be held in all respects as though there were only one election.

24903. The election may be consolidated with any other election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 11 of the Elections Code.

24904. The election shall be called by posting notices, signed by a majority of the governing board of each district, not less than 10 days before the election. If there is a newspaper of general circulation published in any of the districts, notice shall be published in such a newspaper at least once, and at least 10 days prior to the election.

24905. In all respects not otherwise specified the election shall be called and held, and returns canvassed and the result announced in the manner provided for the holding of elections for the purpose of authorizing bonds of the school districts, so far as the provisions of such laws are applicable. The governing boards of the school districts in which the election is held shall for the purposes of this section be considered as one board.

24906. There shall be printed on the ballots to be used at the election the proposition: "Shall the governing boards of (here insert the names of the districts under the control of the boards submitting the proposition) school districts be authorized to establish a plan for a joint district retirement salary for the teachers and such other employees of the districts as the governing boards or the petition determines." To the right of the proposition shall be printed the words "Yes" and "No" with voting squares.

24907. If, at the election, a majority of the voters in each district voting on the proposition cast their ballots in favor of the proposition, the governing boards shall establish a joint district retirement salary plan for the teachers and for such other employees of the districts as the boards or the petition determine.

24908. If a majority of the votes cast in each district on the proposition is in the negative, the governing boards shall not submit the proposition again within a period of six months after the date of the election.

## Article 2. Administration of the Plan

24920. Every teacher and every other employee of the school districts for which the plan for district retirement is adopted, who is employed by the districts at the time of the adoption of the plan, and who signs an agreement to be subject to the burdens of the district retirement plan, shall be entitled to the benefits and subject to the burdens of the plan and of this chapter. Every teacher employed in the public schools of the districts after the adoption of the provisions of this chapter by the governing boards of the districts, and such other employees as the boards or the petition determines, shall be bound by the benefits and burdens of this chapter.

24921. Any plan shall not be adopted or established until the governing boards, after such inquiry and hearing as they may direct, find that the respective contributions of the teachers and other employees and the districts provided for in the plan, are substantially in accordance with the more recent generally prevailing rates of contributions in public institutions which have established retirement systems, and that the plan is in accordance with sound business practice and with recognized actuarial methods.

24922. The plan may provide that the retirement salary shall be a stipulated monthly sum, or that all benefits under the retirement feature of the plan shall be based upon the monthly salary for each year of future active service in the district earned by the employee up to the date of retirement and upon the average monthly salary earned by the teacher or other eligible employee during the year immediately preceding the adoption of the plan and the number of years of past active service of the employee in the district, and subject to such provisions as may be made in the plan for minimum benefits. No employee with less than 15 years' service in the district prior to normal retirement age shall receive the benefit of the minimum. In no instance shall the retirement benefits be based upon or allowed for any amount of salary in excess of the sum of five hundred dollars (\$500) per month.

24923. In lieu of the authorizations or requirements provided for in Sections 24920 and 24922, the plan may provide only that the retirement salary shall be based on service rendered prior to the effective date of the plan or prior to July 1, 1944, and shall be an amount which, when added to the retirement allowance the

respective member is entitled to receive under the State Teachers' Retirement System, shall equal a sum of not less than one hundred dollars (\$100) per month and none of the provisions of Sections 24920 and 24922 shall be applicable thereto. The costs of the benefits under such a plan may be met by the contributions of the districts alone, any other provision of Sections 35161, 35162, 72200, 72201, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, this part, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19 of this division, Part 25 (commencing with Section 44000) of Division 3 of Title 2, Chapter 1 (commencing with Section 87000), Article 3 (commencing with Section 87250) and Article 4 (commencing with Section 87270) of Chapter 2, Article 1 (commencing with Section 87400), Article 2 (commencing with Section 87600), Article 5 (commencing with Section 87700), and Article 8 (commencing with Section 87800) of Chapter 3, Chapter 4 (commencing with Section 88000) of Part 51 of Division 7 of Title 3, to the contrary notwithstanding, and only teachers who have credit for service rendered prior to said date shall be subject to the plan.

24924. (a) A plan established under this chapter which is intended to provide supplemental benefits only on account of service rendered before July 1, 1944, may be discontinued by the governing board of the district, subject to the following conditions:

1. Notwithstanding any other provisions of Sections 35161, 35162, 72200, 72201, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, this part, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19 of this division, Part 25 (commencing with Section 44000) of Division 3 of Title 2, Chapter 1 (commencing with Section 87000), Article 3 (commencing with Section 87250) and Article 4 (commencing with Section 87270) of Chapter 2, Article 1 (commencing with Section 87400), Article 2 (commencing with Section 87600), Article 5 (commencing with Section 87700), and Article 8 (commencing with Section 87800) of Chapter 3, Chapter 4 (commencing with Section 88000) of Part 51 of Division 7 of Title 3, any teacher who is not retired on July 1, 1956, shall be entitled to the contributions made by him to the discontinued plan with interest credited in accordance with the rules and regulations of the local retirement plan to and including June 30, 1957. Likewise, a teacher who retired prior to July 1, 1956, shall be entitled to a refund equal to the actuarial equivalent, at his attained age, of the annuity which would have been provided by the total contributions required of the member under the system, based on interest and mortality tables currently in use, less the

amount of any contributions remaining unpaid on the date of discontinuance. The amount to which any teacher is entitled under this section shall be paid to him within 90 days of his request in writing on a form provided by and filed with the local retirement system. All such requests shall be filed prior to July 1, 1959.

2. The district in which the plan is discontinued shall pay monthly to teachers, who were retired prior to the date of such discontinuance, an amount equal to the amount by which the retirement allowance to which any said retired teacher was entitled under said plan exceeds the increase in said teacher's retirement allowance under the State Teachers' Retirement System after said discontinuance. In lieu of such monthly payment, the district may elect to pay in a single sum the amount which shall be the actuarial equivalent to such monthly amount thereafter payable, according to the interest rate and mortality table currently in use under said plan. Payment of such amount shall discharge fully the district's liability to such teacher under this subdivision. The arrangement under which such amounts are paid by said district shall not be considered to be a local retirement system for the purposes of Chapter 1 (commencing with Section 22000) to Chapter 27 (commencing with Section 24600), inclusive, of this part, nor shall said amount be taken into account in the calculation of the retirement allowances under the State Teachers' Retirement System.

(b) Any person who was retired prior to July 1, 1956, from a position requisite for membership in the State Teachers' Retirement System, under a district supplemental retirement salary plan which has been discontinued pursuant to this section, and elected either under said plan or under said system, but not under both, to have a portion of his retirement allowance modified according to an option under which he would receive a smaller allowance and provide for a benefit for his beneficiary, said person shall have the right, to be exercised not later than 60 days after July 5, 1956, to change his election under the State Teachers' Retirement System with respect to said options. Any computations of actuarial equivalents under a changed election shall be made as of the said effective date, and no adjustment shall be included in the computation on account of retirement allowance payments made prior to that date.

(c) When any local retirement plan is discontinued under the provisions of this section, all funds remaining in the district retirement fund of the local system shall be transferred to the general fund of the school district in which the plan is discontinued. Thereafter any payments to meet continuing obligations of the district arising from the establishment or discontinuance of the plan shall be paid from the general fund of the district.

24925. The governing boards, after the adoption of the plan, shall at regular intervals, each not exceeding a period of five years, secure a general survey and actuarial report of the plan, and the boards shall from time to time amend the plan in such manner as may be found to be advisable to meet changed conditions, or, as in the light of

experience, may be considered necessary.

24926. A plan under which the districts establishing it agree to pay to employees who become entitled to retirement salaries within a specified period, not exceeding 15 years, after the establishment of the plan, a specified sum which, during the life expectancy of the employees, will be approximately equal, in the aggregate, to the aggregate difference, during the life expectancy, between the maximum salary paid to employees in the respective classes of the retiring employees, and the salaries paid to beginning employees in the classes, shall be construed to comply with the provisions of this chapter requiring the plan to be in accordance with sound business practices and recognized actuarial methods.

24927. For the purpose of providing funds which may be necessary to make the payments required by any joint district retirement plan, district taxes shall be levied and collected annually by the respective districts at the same time and in the same manner as other district taxes are levied and collected. The tax shall be in addition to any other district tax now or hereafter authorized by law, and shall not be considered in fixing maximum rates of tax for school district or community college district purposes.

24928. Every joint district retirement plan shall provide that only those teachers and other employees who have served as teachers or employees of the districts for at least 20 years of service immediately preceding retirement, and who have reached a minimum age specified in the joint district retirement plan, which shall not be less than 55 years, shall be entitled to a district retirement salary.

24929. The plan may provide for the retirement of teachers or other employees on account of disability after 10 years of service immediately prior to the retirement, the proportion of the disability retirement salary to the full retirement salary to be specified in the plan.

24930. Absence from service by reason of a leave of absence granted by the governing board of an employing district shall not be construed as a break in the continuity of service or by any district retirement plan adopted pursuant to the provisions hereof, but the period of leave shall not be counted as time served toward retirement unless the period is so counted under the State Teachers Retirement Act.

24931. Time of service may be counted in the aggregate and fractions of years amounting to whole years may be counted as whole years when payments by the teacher or other employee have been made for all of the time counted.

24932. The governing boards of the districts shall in all cases determine the teachers and other employees who are entitled to retirement salaries, and make and keep a list of the teachers and other employees, known as the retired list. For the purpose of making the retired list the boards may take testimony and examine witnesses under oath which may be administered by any member of the board.

24933. The governing boards of the districts may make all necessary and proper rules and regulations in aid or furtherance of the provisions of this chapter and in order to carry out and administer such provisions.

24934. When a joint district retirement plan is established there shall be created in the treasury of the county in which the districts are located, or, if the districts are located in more than one county, in the treasury of the county selected by the governing boards of the districts meeting in joint session, and open upon the books of the auditor and treasurer of the county, a trust fund account designated as the "joint district retirement fund." All moneys, whether from contributions by teachers or other employees, or by the districts, or from any source, properly belonging to the joint district retirement fund shall be placed in the fund. Upon approval of the joint district retirement board all incidental expenses, including actual and necessary clerical or other help, incurred in carrying out the provisions of this chapter shall be paid out of the fund and in the same manner as other expenditures are paid from district funds.

24935. Members of governing boards shall discharge the powers, duties, purposes, responsibilities, and jurisdiction conferred or imposed upon the governing boards under this chapter without extra or additional compensation.

24936. The governing boards of the districts establishing the retirement plan shall provide for the administration of the funds and the payment of retirement salaries by a "joint district retirement board" composed of three persons not officers or employees of any of the districts, one representative of each district, one representative of the teachers of each district and one representative of the other employees of each district, who shall serve without compensation. The representatives chosen by the teachers and other employees shall be chosen by secret ballot. The county treasurer of the county in the county treasury of which the "joint district retirement fund" is created shall be ex officio a member of the joint district retirement board. All members of the retirement board shall serve for such terms as may be specified by the governing boards in establishing a plan. The joint district retirement board shall have such further powers and duties as may be prescribed by the governing boards of the districts.

24937. The joint district retirement board shall have charge and control of the district retirement fund of the district and of the payment of all retirement salaries and annuities payable from the fund. The joint district retirement board shall invest the funds in securities which are legal for the investment of funds of savings banks in this state and shall sell the securities and reinvest the proceeds in securities legal for investment of funds of savings banks when in the judgment of the joint district retirement board the sale and reinvestment is advisable. No investment in or sale of securities shall be made except upon authorization of the joint district retirement board at a meeting of the board.

The board also shall collect the income from the securities and pay it into the joint district retirement fund.

24938. The joint district retirement board may sue in its own name when necessary to carry out the powers and duties conferred upon it. The district attorney, or, if there is a county counsel, the county counsel of the county in which are employed the largest number of employees entitled to the benefits and subject to the burdens of the joint district retirement plan shall act as attorney for the joint district retirement board without additional compensation.

24939. All securities purchased by the joint district retirement board shall be deposited with the county treasurer for safe keeping.

24940. All payments from the joint district retirement fund shall be made in the same manner as payments from school district funds but shall be subject to approval of the joint district retirement board. Warrants drawn on the fund shall be signed by at least one member of the joint district retirement board who shall be designated by the board.

The duties imposed upon the county treasurer shall be a part of his official duties, for the faithful performance of which he shall be liable upon his official bond.

24941. The county auditor of the county in the county treasury of which the "joint district retirement fund" is created shall audit the accounts of the joint district retirement board at least once every 12 months and report upon the financial condition thereof to the governing boards of the districts.

24942. The retirement salaries provided for in this chapter shall be in addition to any other retirement salaries received by any person under Chapter 1 (commencing with Section 22000) to Chapter 27 (commencing with Section 24600), inclusive, of this part, or as may be otherwise provided by law.

24943. The retirement salaries provided for in this chapter for all other employees, shall be in addition to any other retirement salaries that may be provided by law.

24944. Whenever by the provisions of this chapter, the governing boards of two or more school districts are required, or authorized, to perform any act, the act may be done only at joint meetings of the boards, and no action shall be taken by the boards except upon the affirmative vote of a majority of the members of a majority of the boards.

## PART 19. MISCELLANEOUS

### CHAPTER 1. SCHOOL SAFETY—PUBLIC AND PRIVATE INSTITUTIONS

#### Article 1. Uniform Fire Signals

32000. The signal system provided for in this article shall be known as the California uniform fire code signal.

32001. Every public, private, or parochial school building having an occupant capacity of fifty (50) or more students or more than one classroom shall be provided with a dependable and operative fire warning system. Every person and public officer managing, controlling, or in charge of any public, private, or parochial school shall cause the fire alarm signal to be sounded upon the discovery of fire. Every person and public officer managing, controlling, or in charge of any public, private, or parochial school, other than a two-year community college, shall cause the fire alarm signal to be sounded not less than once every calendar month in the manner prescribed in this article except that when a fire alarm system having a distinctive tone, and which is used for no other purpose, is installed, the manner of sounding alarm shall not be subject to the provisions of Sections 32002, 32003, and 32004.

32002. When the signal is given by means of an apparatus emitting intermittent sound signals, the signal shall be given by repeated successive short intermittent signals for a full period of ten (10) seconds, to be immediately followed by an intermission or period of silence of five (5) full seconds before the signal is repeated.

32003. When the signal is given by means of an apparatus emitting prolonged or continuous sound signals, the signal shall be given by prolonged whistle blast or other sound signal continuously sounded for a full period of ten (10) seconds, to be immediately followed by an intermission or period of silence of five (5) full seconds before the signal is repeated.

32004. In no case shall the signal be given for less than a one-minute period, and then only in the manner indicated.

## Article 2. Gates to School Grounds

32020. The governing board of every public school district, and community college district, and the governing authority of every private school, which maintains any building used for the instruction or housing of school pupils on land entirely enclosed (except for building walls) by fences or walls, shall, through cooperation with the local law enforcement and fire protection agencies having jurisdiction of the area, make provision for the erection of gates in such fences or walls. The gates shall be of sufficient size to permit the entrance of the ambulances, police equipment, and firefighting apparatus, used by the law enforcement and fire protection agencies. There shall be no less than one such access gate and there shall be as many such gates as needed to assure access to all major building and grounds areas. If such gates are to be equipped with locks, the locking devices shall be designed to permit ready entrance by the use of the chain or bolt cutting devices with which the local law enforcement and fire protection agencies may be equipped.

## Article 3. School Eye Safety

32030. It shall be the duty of the governing board of every school district, and community college district and of every county superintendent of schools, and of every person, firm, or organization maintaining any private school, in this state, to equip schools with eye protective devices as defined in Section 32032, for the use of all students, teachers, and visitors when participating in the courses which are included in Section 32031. It shall be the duty of the superintendents, principals, teachers or instructors charged with the supervision of any class in which any such course is conducted, to require such eye protective devices to be worn by students, teachers, or instructors and visitors under the circumstances prescribed in Section 32031.

32031. The eye protective devices shall be worn in courses including, but not limited to, vocational or industrial arts shops or laboratories, and chemistry, physics or combined chemistry-physics laboratories, at any time at which the individual is engaged in, or observing, an activity or the use of hazardous substances likely to cause injury to the eyes.

Hazardous substances likely to cause physical injury to the eyes include materials which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition or other means as defined in the California Hazardous Substances Labeling Act.

Activity or the use of hazardous substances likely to cause injury to the eyes includes, but is not necessarily limited to, the following:

1. Working with hot molten metal.
2. Milling, sawing, turning, shaping, cutting, grinding and stamping of any solid materials.
3. Heat treating, tempering, or kiln firing of any metal or other materials.
4. Gas or electric arc welding.
5. Repairing or servicing of any vehicles, or other machinery or equipment.
6. Working with hot liquids or solids or with chemicals which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means.

32032. For purposes of this article the eye protective devices utilized shall be industrial quality eye protective devices which meet the standards of the American National Standards Institute for "Practice for Occupational and Educational Eye and Face Protection" (Z87.1-1968), and subsequent standards that are adopted by the American National Standards Institute for "Practice for Occupational and Educational Eye and Face Protection."

32033. The eye protective devices may be sold to the pupils and teachers or instructors at a price which shall not exceed the actual cost of the eye protective devices to the school or governing board.

32034. The term eye protective devices as used in Sections 32030 to 32033, inclusive, shall not include prescription lenses as defined in Chapter 5.4 (commencing with Section 2540), Division 2, Business and Professions Code. Prescription lenses which meet the standards set forth in Section 32032 may be used by persons doing the work described in Item 6 of Section 32031 in a classroom under the supervision of appropriate personnel.

#### Article 4. First Aid Equipment

32040. The governing board of any school district, or community college district, superintendent of schools, or principal in whom is vested the administration or supervision of any public or private school in the state shall equip the school with a first aid kit, whenever any pupils of the school are conducted or taken on field trips under the supervision or direction of any teacher in, or employee or agent of, the school.

(Amended by Stats. 1976, Ch 1011.)

#### [ORIGINAL SECTION]

32040. The governing board of any school district, or community college district, superintendent of schools, or principal in whom is vested the administration or supervision of any public or private school in the state shall equip the school with a first aid kit containing the articles mentioned in Section 32042, whenever any pupils of the school are conducted or taken on field trips under the supervision or direction of any teacher in, or employee or agent of, the school.

32041. The teacher, instructor agent, or employee shall have the first aid kit in his possession, or immediately available, while conducting the field trip.

32043. Whenever a field trip is conducted into an area which is commonly known to be infested by poisonous snakes, the first aid kit shall include a snake bite kit.

32044. Any member of the governing board of any school district, any community college district and any superintendent of schools, principal, teacher, instructor, or agent who willfully violates the provisions of this article is guilty of a misdemeanor.

#### Article 5. Hazing Laws

32050. As used in this article, "hazing" includes any method of initiation into a student organization or any pastime or amusement engaged in with respect to such an organization which causes, or is likely to cause, bodily danger or physical harm to any student or other person attending any school, community college, college, university or other educational institution in this state; but the term "hazing" does not include customary athletic events or other similar contests or competitions.

32051. No student, or other person in attendance at any public, private, parochial, or military school, community college, college, or other educational institution, shall conspire to engage in hazing, participate in hazing, or commit any act that injures, degrades, or

disgraces, or tends to injure, degrade, or disgrace any fellow student or person attending the institution.

The violation of this section is a misdemeanor, punishable by a fine of not less than fifty dollars (\$50), nor more than five hundred dollars (\$500), or imprisonment in the county jail for not more than six months, or both.

32052. Any person who participates in the hazing of another, or any corporation or association which knowingly permits hazing to be conducted by its members or by others subject to its direction or control, shall forfeit any entitlement to public funds, scholarships or awards which are enjoyed by him or by it and shall be deprived of any sanction or approval granted by any public educational institution or agency.

The governing board of any public school, public college, public university or other public educational institution or agency may adopt rules and regulations to implement this section.

If he has reason to believe that a forfeiture should be declared under this section, the Attorney General or the district attorney of any county or city and county may institute a special proceeding in the superior court to establish such forfeiture. Any funds so forfeited shall be deposited in the State Treasury and credited to the State School Fund.

## CHAPTER 2. SCHOOL SAFETY—PUBLIC INSTITUTIONS

### Article 1. Fire Drills

32200. Notwithstanding the provisions of Section 1714.5 of the Civil Code, no superintendent, principal, teacher, instructor or other employee of a school district or community college district employed in a position requiring or not requiring certification qualifications, and no person authorized by the governing board of the school district or community college district to assist any employee of the district, shall be held personally liable for civil damages on account of personal injury to or death of any person resulting from the participation of the person in a fire drill or other drill or test related to a potential emergency situation, ordered by lawful authority to be held in the schools of the employing district, unless negligence or the willfully act of the employee is the proximate cause of the injury or death.

### Article 2. Willful Disturbance, Public Schools or Meetings

32210. Any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and shall be punished by a fine of not more than two hundred fifty dollars (\$250).

32211. (a) Any person who is not a student of the public school, a parent or guardian of a student of the public school, or an officer or employee of the school district maintaining the public school, or

who is not required by his employment to be in a public school building or on the grounds of the public school, and who has entered any public school building or the grounds of any public school, during school hours, and who is requested either by the principal of the public school or by the designee of the principal to leave a public school building or public school grounds, shall promptly depart therefrom and shall not return thereto for at least 48 hours. A request that a person depart from a public school building or public school grounds shall be made by the principal or his designee exclusively on the basis that it appears reasonable to the principal or his designee to conclude that the continued presence of the person requested to depart would be disruptive of, or would interfere with, classes or other activities of the public school program.

(b) Any person who fails to leave a public school building or public school grounds promptly upon request of the principal of the public school or the designee of the principal made pursuant to subdivision (a) or who, after leaving a public school building or public school grounds pursuant to a request of the principal of the public school or the designee of the principal made pursuant to subdivision (a), returns thereto, except pursuant to subdivision (d), within 48 hours, is guilty of a misdemeanor and shall be punished pursuant to Section 626.8 of the Penal Code.

(c) Any person who is requested pursuant to subdivision (a) to leave a public school building or school grounds may appeal to the superintendent of the school district in which the public school is located. Such an appeal shall be made not later than the second succeeding schoolday after the person has departed from the public school building or public school grounds. The superintendent shall, after reviewing the matter with the principal or his designee and the person seeking ingress to the public school during school hours, render his decision within 24 hours after the appeal is made, and such decision shall be binding upon both parties. A decision of the superintendent may be appealed by the person seeking ingress to the public school during public school hours to the governing board of the school district in which the public school is located. Such an appeal shall be made not later than the second succeeding schoolday after the superintendent has rendered his decision. The governing board of the school district shall consider and decide the appeal at its next scheduled regular or adjourned regular public meeting, and the decision of the governing board shall be final.

(d) Where the office of the superintendent of the school district or the office of the governing board of the school district or community college district is situated in the public school building or on the grounds of the public school from which a person has been requested, pursuant to subdivision (a), to depart, the person may enter the public school building or the grounds of the public school solely for the purpose of, and only to the extent necessary for, personally making at the office of the superintendent or the office of the governing board an appeal pursuant to subdivision (c).

(e) The governing board of every school district or community college district shall cause to have posted at every entrance to each school and grounds of the district a notice which shall set forth "school hours," which are hereby defined for the purposes of this section as the period commencing one hour before classes begin and one hour after classes end at any school, or as otherwise defined by the governing board of the school district.

(f) For the purposes of subdivision (a), a representative of a school employee organization engaged in activities related to representation, as defined by Section 7104, shall be deemed to be a person required by his employment to be in a school building or on the grounds of a school.

(g) Nothing in this section shall be construed as preempting any ordinance of any city, county, or city and county.

### Article 3. Insurance for Athletic Teams

32220. As used in this chapter:

(a) "Educational institution" means a school district or community college district, a state university or college, the University of California, and Department of Education special schools.

(b) "Governing board" means the governing board of a school district or community college district, the Trustees of the California State University and Colleges, and the Regents of the University of California.

(c) "Member of an athletic team" means member of any extramural athletic team engaged in athletic events on or outside the school grounds, maintained or sponsored by the educational institution or a student body organization thereof. "Member of an athletic team" also includes members of school bands or orchestras, cheerleaders and their assistants, pompon girls, team managers and their assistants, and any student or pupil selected by the school or student body organization to directly assist in the conduct of the athletic event, including activities incidental thereto, but only while such members are being transported by or under the sponsorship or arrangements of the educational institution or a student body organization thereof to or from a school or other place of instruction and the place at which the athletic event is being conducted.

Organized rooting sections, student body members who are spectators, and other spectator students, who are not actually participating in the conduct of the athletic event, are not members of an athletic team. Participants in a playday or field day activity occurring occasionally during a school year, in which students of one or more particular grade levels from two or more schools of a school district or community college district participate in athletic contests, are not members of an athletic team. Nothing in this section shall be construed as prohibiting a governing board from extending the applicability of the provisions of this article to any such persons,

should the governing board elect so to do.

(d) "Student body organization" means any student organization under supervision of the educational institution or its officers.

32221. The governing board of any educational institution, except a school district or community college district of any kind or class and Department of Education special schools as defined in Sections 59000, 59100, and 59200, shall provide accidental death insurance in an amount of at least five thousand dollars (\$5,000) for each member of an athletic team and shall in addition provide insurance protection for medical and hospital expenses resulting from accidental bodily injuries in an amount of at least five thousand dollars (\$5,000) for all such services for each member of an athletic team, through group, blanket or individual policies of accident insurance from authorized insurers, or through a benefit and relief association described in subparagraph (1) of subdivision (c) of Section 10493 of the Insurance Code, for the death or injury to members of athletic teams arising while such members are engaged in or are preparing for an athletic event promoted under the sponsorship or arrangements of the educational institution or a student body organization thereof or while such members are being transported by or under the sponsorship or arrangements of the educational institution or a student body organization thereof to or from school or other place of instruction and the place of the athletic event; provided that the Trustees of the California State University and Colleges and the Regents of the University of California may authorize and require the student body organizations designated pursuant to this section, to be responsible for such medical and hospital expenses in any amount the trustees or the regents may specify, up to two hundred fifty dollars (\$250), in which event such insurance protection for the health and accident expenses may include a deductible clause in the same amount.

The governing board of each school district or community college district of any kind or class and the Department of Education special schools as defined in Sections 59000, 59100, and 59200 shall provide accidental death insurance in an amount of at least one thousand five hundred dollars (\$1,500) for each member of an athletic team and shall in addition provide insurance protection for medical and hospital expenses resulting from accidental bodily injuries in one of the following amounts:

(a) A group or individual medical plan with accidental benefits of at least two hundred dollars (\$200) for each occurrence and major medical coverage of at least ten thousand dollars (\$10,000), with no more than one hundred dollars (\$100) deductible and no less than eighty percent (80%) payable for each occurrence.

(b) Group or individual medical plans which are certified by the Insurance Commissioner to be equivalent to the required coverage of at least one thousand five hundred dollars (\$1,500).

(c) At least one thousand five hundred dollars (\$1,500) for all such medical and hospital expenses.

Insurance protection in either of the above amounts shall be provided through group, blanket or individual policies of accident insurance from authorized insurers or through a benefit and relief association described in subparagraph (1) of subdivision (c) of Section 10493 of the Insurance Code, for the death or injury to members of athletic teams arising while such members are engaged in or are preparing for an athletic event promoted under the sponsorship or arrangements of the educational institution or a student body organization thereof or while such members are being transported by or under the sponsorship or arrangements of the school districts or community college districts or a student body organization thereof to or from school or other place of instruction and the place of the athletic event. Minimum medical benefits under any insurance required by this paragraph shall be equivalent to the three dollars and fifty cents (\$3.50) conversion factor as applied to the unit values contained in the minimum fee schedule adopted by the Division of Industrial Accidents of the State of California, effective October 1, 1966.

The Trustees of the California State University and Colleges and the Board of Regents of the University of California shall designate such student body organizations as they deem appropriate to bear the entire cost of the insurance under this article, in such proportions as they deem equitable, and shall make appropriate deductions from any such student body organization funds held by such institutions, or otherwise take such measures, as will assure the payment thereof.

The governing boards of the various school districts or community college districts and the Department of Education special schools shall require that each member of an athletic team have insurance protection as prescribed by this section, with the costs of such insurance protection to be paid either out of the funds of the district, the funds of the student body, or by any other persons on behalf of, the individual team members or students covered by such insurance. In the event that the governing board of a school district or community college district should determine that a member of an athletic team or the parents, guardians or other person having charge or control of a member of an athletic team are financially unable to pay the costs of such insurance protection, then the governing board shall require the costs of such protection to be paid either out of funds of the district or funds of the student body.

The insurance required by this article shall be issued by an admitted insurer, or through a benefit and relief association described in subparagraph (1) of subdivision (c) of Section 10493 of the Insurance Code.

The insurance otherwise required by this section shall not be required for any individual team member or student who has such insurance or a reasonable equivalent of health benefits coverage provided for him in any other way or manner, including, but not limited to, purchase by himself, or by his parent or guardian.

**32222.** Any claim for accidental bodily injuries or accidental

death described in this article which is subject to, and for which benefits have been paid under, the provisions of Division 4 (commencing with Section 3200) of the Labor Code is excluded from the required coverage and benefits under this article. Recreation activities under Chapter 10 (commencing with Section 10900) of Part 7 of this division, are excluded from the required coverage and benefits of this article.

32223. The coverage provided under this article shall not exclude additional or broader coverage by an educational institution or its student body organization.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

32223. The coverage provided under this article shall not exclude additional or broader coverage by an educational institution or its student body organization. Notwithstanding any other provision of this article, protection for medical and hospital expenses resulting from accidental bodily injuries, in amounts prescribed in Section 32221, may be provided by any corporation eligible to act as a carrier pursuant to Section \_\_\_ of the Welfare and Institutions Code, and such coverage will be deemed to meet the requirements of this article.

32224. The insurance coverage provided under this article may contain the following provisions:

(1) School administrative authorities shall certify whether an injured student applying for the insurance benefits is a student of the educational institution and is enrolled as a member of an athletic team.

(2) The injured student, or his parents or guardian, shall notify school administrative authorities of his injury not later than 60 days from the date of injury.

(3) Medical or hospital care or treatment must commence within 120 days from the date of injury.

(4) The period of time for which benefits shall be payable is limited to 52 weeks from the date the student received his first medical or hospital care or treatment. Benefits shall be payable only for such treatment as is given within the United States.

(5) Death benefits shall be paid only in the event death is medically determined to be caused by the injury and occurs within 52 weeks of the first medical or hospital care or treatment for such injury.

### CHAPTER 3. MISCELLANEOUS

#### Article 1. Printing and Binding

32300. All printing or binding required by the Superintendent of Public Instruction or the State Board of Education, or by any educational institution, except the University of California, supported entirely out of state funds, and all school registers and blank forms prescribed by the Superintendent of Public Instruction for the use of officers charged with the administration of the laws relating to the public schools, including blank teachers' certificates,

and diplomas of graduation from elementary schools in districts not governed by city boards of education, shall be performed by the Department of General Services in the form and manner and at the prices of other state printing, and be paid for in like manner.

## Article 2. Printing Schools

32310. No printing concern, institution, or other agency maintaining a printing plant or department for the purpose of instruction or the teaching of the art of printing, or allied arts, and whose purpose is to teach or instruct its students or members, shall produce, print, or cause to be printed any material whatsoever that may be placed on the market in competition with regularly established printing plants or concerns, if such printing concern, institution, or other agency is supported or operated from public or state funds or is tax free in any manner.

32311. This article does not apply to:

(a) Any institution classified as an educational institution within the meaning and intent of Section 101 of the Internal Revenue Code of the United States or of Section 23701d of the Revenue and Taxation Code and which, nevertheless, pays general state and county taxes within this state upon any printing plant and printing equipment owned by it.

(b) The production of forms, materials, and supplies at any state educational institution under the exclusive management and control of the state and authorized by law.

(c) Any publication, printed and produced at any state educational institution under the exclusive management and control of the state for the dissemination of technical or scientific information and which is sold at cost.

(d) Printing which may be classified as "instruction" or "student activity."

32312. The violation of this article is a misdemeanor.

## Article 3. Tuition and Fees for Children of Disabled Veterans

32320. No state-owned college, university, or other school shall charge any tuition, or incidental fees to:

(a) Any dependent receiving assistance under Article 2 (commencing with Section 890) of Chapter 4 of Division 4 of the Military and Veterans Code, or

(b) Any child of any veteran of the United States military service who has a service-connected disability, and whose annual income not including governmental compensation for such service-connected disability, does not exceed five thousand dollars (\$5,000), or

(c) Any child of any veteran who has been killed in service or has died of a service-connected disability, where the annual income of such child, including the value of any support received from a parent, and the annual income of a surviving parent, does not exceed

five thousand dollars (\$5,000).

Nothing contained in this section shall prevent the Regents of the University of California from charging to and collecting from nonresident students an admission fee and rate of tuition nor shall anything in this section prevent the charging and collecting of fees required of nonresident students admitted to schools under the jurisdiction of the Department of Education or the Director of Education or to a state university or college under the jurisdiction of the Trustees of the California State University and Colleges.

This section shall not apply to a dependent of a veteran within the meaning of paragraph (4) of subdivision (a) of Section 890 of the Military and Veterans Code.

#### Article 4. Use of County Funds for Agriculture

32330. The boards of supervisors of any county may appropriate and use county funds for the support and maintenance of extension work in agriculture and home economics. The extension work shall be designed for the benefit of the respective counties and conducted under the approval of the United States Department of Agriculture and in cooperation with the University of California.

#### Article 5. Unlawful Issuance of a Credential

32340. Any state, county, or city and county superintendent, or any state, county, or city and county board of education, who issues a credential, except as provided by law, is guilty of a misdemeanor.

32341. Except where such service is provided by a school district or a community college district pursuant to Section 44332.5 or 87212.5, each county or city and county board of education may provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the county superintendent of schools of such county or city and county or of a school district under the jurisdiction of such county superintendent of schools.

#### Article 6. District Liability on Loaned Equipment

32350. Any person, corporation, firm, or public entity, or employee thereof, who gratuitously loans equipment of any description or the services of an employee to a school district or community college district shall not be liable, and the school district or community college district shall be liable, for damages because of personal injuries to, or the death of any person or damage to property resulting from the operation of such equipment or an act or omission of such employee occurring while such equipment or employee is under the supervision and control of the district.

This section does not apply to any person, corporation, firm, or

public entity who gratuitously loans mechanically defective equipment of any description or who gratuitously loans the services of an employee who is not fully qualified to perform such service, and such defect or lack of qualification is the cause of any damage or injury.

An employee whose services are loaned to a school district or community college district pursuant to this section remains an employee of his employer for all purposes, including the application of the provisions of the Labor Code relating to workmen's compensation.

For the purposes of this section, "public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, or any other political subdivision or public corporation in this state.

#### Article 7. Copyright Laws

32360. No funds shall be expended by a school district, a community college district, a county board of education, or a county superintendent of schools to secure a copyright for any person or firm, but nothing in this section shall be construed to prevent the governing board of any school district, community college district, or county board of education from securing copyrights, in the name of the district or board, to all copyrightable works developed by the district or board.

32361. A school district, a community college district, a county board of education, or a county superintendent of schools shall not use the regular worktime of any employee to secure a copyright for any person or firm, but nothing in this section shall be construed to prevent the governing board of any school district, community college district, or county board of education from securing copyrights, in the name of the district or board, to all copyrightable works developed by the district or board.

## TITLE 2. ELEMENTARY AND SECONDARY EDUCATION

## DIVISION 2. STATE ADMINISTRATION

## PART 20. STATE EDUCATIONAL AGENCIES

## CHAPTER 1. STATE BOARD OF EDUCATION

## Article 1. Composition

33000. There is in the state government a State Board of Education, consisting of 10 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

33001. The term of office of the members of the board is four years, and they shall hold office until the appointment and qualification of their successors. The terms of the members of the board in office when this section takes effect shall expire as follows:

Three members January 15, 1960.

Two members January 15, 1961.

Three members January 15, 1962.

Two members January 15, 1963.

The terms shall expire in the same relative order as to each member as the term for which he holds office before this section takes effect.

33002. Any vacancy shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

33003. At the first meeting following any change in the membership of the board, the board shall reorganize by electing one of its members president.

33004. The Superintendent of Public Instruction shall be secretary and shall act as executive officer of the board. He shall have charge of all its correspondence and shall keep a record of its proceedings.

33005. The board shall appoint an acting secretary, who shall also act as executive officer of the board in the absence of the Superintendent of Public Instruction from the state, or in case of his incapacity for duty.

33006. Members of the board shall serve without pay. They shall receive their actual and necessary traveling expenses while on official business.

33007. The board shall meet at least six times a year at such times as it may by resolution determine; provided, that it shall meet at least once every three months.

33008. Special meetings may be called by the president. Upon the request of any four members in writing, the secretary shall call a special meeting.

33009. Notice of each meeting shall be given by the secretary by registered mail to each member of the board at least 10 days prior to the time of the meeting. Notice of the meeting may be waived in writing by all members of the board.

33010. The concurrence of six members of the board shall be necessary to the validity of any of its acts.

## Article 2. Powers and Duties

33030. The board shall determine all questions of policy within its powers.

33031. The board shall adopt rules and regulations not inconsistent with the laws of this state (a) for its own government, (b) for the government of its appointees and employees, (c) for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the state, and (d) for the government of such other schools, excepting the University of California and the California State University and Colleges, as may receive in whole or in part financial support from the state.

The rules and regulations adopted shall be published for distribution as soon as practicable after adoption.

33032. The board shall study the educational conditions and needs of the state. It shall make plans for the improvement of the administration and efficiency of the public schools of the state.

33033. The State Board of Education may:

(a) Establish at the request of the governing authorities of any state institution, courses of instruction for the inmates of the institution.

(b) Examine under arrangements with the governing authorities of the institution the progress of students taking the courses and grant certificates of progress or completion as the State Board of Education may determine.

33034. The board shall issue subpoenas to compel the attendance of witnesses before the board, or any member thereof, in the same manner as any court in this state. Whenever the testimony of any witness upon any matter pending before it is material, the president shall cause the attendance of the witnesses before the board, or a member of the board, to testify concerning the matter, and the board may make a reasonable allowance for this purpose not exceeding the fees of witnesses in civil cases. The allowance shall be paid for out of the appropriation for the expense of the board, but in no instance shall an allowance be made in favor of a witness who appears in behalf of a claimant. The provisions of this section shall not apply to proceedings conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

33035. The board shall adopt and use an official seal in authentication of its acts.

33036. The board shall cause the Department of General Services

to do any printing required by it. All orders for printing shall first be approved by the Department of General Services.

33037. The board shall submit to the Governor biennially on or before the fifteenth day of September next preceding the regular session of the Legislature, a report of its transactions for the preceding two years, together with recommendations of its needs for the coming biennium, and such recommendations as to changes in laws or new educational legislation as may seem to it to be necessary.

33038. The Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt general guidelines for use by school districts and county superintendents of schools in the development of curriculum and the adoption of courses of study for the special instruction of mentally retarded minors enrolled in public schools as defined by Sections 56501 and 56515. The Superintendent of Public Instruction is authorized to employ on a part-time basis curriculum specialists to assist in the development of such guidelines.

33039. The State Board of Education shall develop guidelines which school districts may use in the development of teacher evaluation procedures pursuant to Article 11 (commencing with Section 44660) of Chapter 1 of Part 25 of Division 3 of this title, and shall distribute such guidelines to every school district.

33040. The State Board of Education and the governing bodies of any county, city, and fire protection district are authorized to enter into agreements providing for the assignment of employees of the fire departments of such counties, cities, and fire protection districts to serve as instructors in fire training programs conducted under the auspices of the State Board of Education and providing for the payment to such counties, cities, and fire protection districts by the State Board of Education from the funds appropriated for vocational education of such amount as may be agreed upon for the services of such employees.

## CHAPTER 2. SUPERINTENDENT OF PUBLIC INSTRUCTION

### Article 1. Appointment and Salaries

33100. A vacancy in the office of Superintendent of Public Instruction shall be filled by appointment by the Governor.

33101. The annual salary of the Superintendent of Public Instruction is provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code. He shall execute an official bond in the sum of ten thousand dollars (\$10,000).

33102. The actual and necessary traveling expenses of the Superintendent of Public Instruction, his deputy and assistants, shall be ordered and paid out of the appropriation made for the Department of Education.

## Article 2. Powers and Duties

33110. The Superintendent of Public Instruction may employ one Deputy Superintendent of Public Instruction and necessary clerical and expert assistants, and may fix the compensation of all statutory and other employees as provided by law, except as otherwise provided.

33111. The Superintendent of Public Instruction shall execute, under direction of the State Board of Education, the policies which have been decided upon by the board and shall direct, under general rules and regulations adopted by the State Board of Education, the work of all appointees and employees of the board.

33112. The Superintendent of Public Instruction shall:

(a) Superintend the schools of this state.

(b) Prepare, have printed, and furnish to teachers and to all officers charged with the administration of the laws relating to the public schools such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by county and city and county boards of education.

(c) Authenticate with his official seal all drafts or orders drawn by him, and all papers and writings issued from his office.

(d) Have bound, at the state bindery, all valuable school reports, journals, and documents in his office, or received by him.

(e) Deliver over, at the expiration of his term of office, on demand, to his successor, all property, books, documents, maps, records, reports, and other papers belonging to his office, or which may have been received by him for the use of his office.

33113. The Superintendent of Public Instruction shall prescribe regulations under which contracts, agreements or arrangements may be made with agencies of the federal government for funds, services, commodities, or equipment to be made available to schools of the public school system, except the California State University and Colleges.

33114. All such contracts, agreements or arrangements shall be entered into in accordance with regulations prescribed by the Superintendent of Public Instruction and in no other manner.

33115. The Superintendent of Public Instruction may enter into an agreement with the government of the United States or any agency thereof relative to the establishment of courses of study in aeronautics in the technical schools of the public school system, except the California State University and Colleges.

33116. The Director of Education may enter into agreements with any agency of the federal government for the education of persons in the service of the federal government in schools under the jurisdiction of the Department of Education. All money received from an agency of the federal government for the education of persons in any such school is hereby appropriated for the support of such school in addition to such other funds as may be appropriated therefor by the Legislature.

33117. The Director of Education may enter into agreements with agencies of the federal government, county superintendents of schools, county boards of education, any school district, and state college foundations or other auxiliary organizations, including those established pursuant to Sections 87300 and 90000 for the performance of any services for such agencies by any school under the jurisdiction of the Department of Education. All money received under any such agreement, except recovery of contributions to the Public Employees' Retirement Fund, is hereby appropriated for the support of such school in addition to such other funds as may be appropriated therefor by the Legislature.

33118. The Superintendent of Public Instruction shall, not later than the 25th day of July in each year, prepare an estimate of the amount of state school money that will be apportioned to each county or city and county during the current school year, and furnish a certified copy of the estimate to each county or city and county superintendent of schools.

33119. Other than for persons in the state civil service, the length of, and the time for, vacations of teachers, officers, and employees of the schools for the deaf, the school for the blind, and orientation centers for the blind shall be prescribed by the Director of Education, except that the length of vacations for teachers at orientation centers for the blind shall not exceed 30 days.

33120. The Director of Education may conduct experimental work in education through various media, including radio and television.

33121. The Director of Education may develop audial and visual curriculum materials, evolve means and methods, and prescribe standards, for the use of such materials in the public elementary and secondary schools.

33122. The Director of Education shall employ such persons as are necessary for the coordination and the supervision of services for hard-of-hearing children.

33123. The Director of Education may enter into an agreement with any political entity mentioned in Section 44853 for the exchange and employment of persons serving as teachers in schools under the jurisdiction of the Department of Education and employees of public schools of the political entity. The exchange and employment shall be made under comparable circumstances, subject to comparable conditions, with comparable effect as to tenure and retirement rights, subject to comparable requirements as to payment of salary and deductions therefrom, and for the same period of time as set forth in Sections 44853, 44854, and 44855 with respect to the exchange of school district employees, except that the circumstances, conditions, rights, and requirements shall be those appropriate to the employment relationship between the teachers and the Department of Education.

33124. The Superintendent of Public Instruction shall report on elementary textbooks to the Joint Legislative Budget Committee.

The report shall include such information relating to state textbooks as the Joint Legislative Budget Committee may require. The report shall be made at times required, and on forms prescribed by the Joint Legislative Budget Committee. The report shall be made at least once a year.

33125. The Director of Education, subject to such conditions as the State Board of Education may establish, may purchase annuity contracts for the employees of the California School for the Deaf provided for in Chapter 1 (commencing with Section 59000) of Part 32 of Division 4 of this title, the California School for the Blind provided for in Chapter 2 (commencing with Section 59100) of Part 32 of Division 4 of this title, and the diagnostic schools for neurologically handicapped children provided for in Chapter 3 (commencing with Section 59200) of Part 32 of Division 4 of this title, and shall reduce the salary of any such employee for whom such contract is purchased in the amount of the cost thereof; provided that each of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code of 1954 of the United States.

(b) The employee makes application to the director for such purchase and reduction of salary.

(c) All provisions of the Insurance Code applicable to the purchase of such annuities are satisfied.

### Article 3. Deputies and Associate Superintendents

33140. The duties of the Deputy Superintendent of Public Instruction and of the associate superintendents of public instruction appointed by the State Board of Education under Section 2.1 of Article IX of the Constitution of this state shall be such as are assigned to them by the Superintendent of Public Instruction.

33141. The annual salaries of the Deputy Superintendent of Public Instruction and of the associate superintendents of public instruction appointed by the State Board of Education under Section 2.1 of Article IX of the Constitution of this state shall be fixed by the Superintendent of Public Instruction with the approval of the Director of Finance.

### Article 4. Reports

33150. As used in this article:

(a) "School district" does not include an elementary school district with less than one hundred one (101) units of average daily attendance, a high school district with less than three hundred one (301) units of average daily attendance.

(b) "Teacher" means an employee of a school district, employed in a position requiring certification qualifications and whose duties require him to provide direct instruction to pupils in the schools of

that district for the full time for which he is employed. "Teacher" shall include, but not be limited to, teachers of special classes, teachers of exceptional children, teachers of physically handicapped minors, teachers of mentally retarded minors, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers.

(c) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.

(d) "Administrative employee" means an employee of a school district, employed in a position requiring certification qualifications, but who does not come within the meaning of subdivision (b) or (e).

(e) "Pupil services employee" means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, and who performs direct services to pupils. "Pupil services employee" shall include, but not be limited to, inschool librarians, school nurses, assistance inschool librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel services, health, or librarian services.

(f) "Classification" means one of the classifications specified in Section 33152.

33151. On or before December of each year, each school district shall submit to the Superintendent of Public Instruction, on forms that he shall provide and in accordance with regulations which he shall adopt, a report containing all of the following information as of the single date specified by the Superintendent of Public Instruction.

(a) The number of teachers employed by the district.

(b) The number of classified employees employed by the district.

(c) The number of administrative employees employed by the district.

(d) The number of pupil services employees employed by the district.

The number of employees in subdivisions (a), (b), (c), and (d) shall include the full-time equivalent of all fractional time of such employees.

33152. The Superintendent of Public Instruction shall place all districts in one of the following classifications:

(1) Elementary districts not operated by a common administration.

(2) High school districts not operated by a common administration.

(3) Unified school districts.

(4) Elementary and high school districts under one common administration.

33153. (a) After receiving reports pursuant to this article, the Superintendent of Public Instruction shall, for each classification,

perform the following functions: (1) compare the figures reported to him for teachers with those for classified employees and compute a ratio of such classified employees to each 100 teachers for each classification of district, (2) compare the figures reported to him for teachers with those for administrative employees and compute a ratio of such administrative employees to each 100 teachers for each classification of district, and (3) compare the figures reported to him for teachers with those for pupil services employees and compute a ratio of such pupil services employees to each 100 teachers for each classification of district.

(b) The Superintendent of Public Instruction shall rank each district in each classification on the basis of the ratio computed pursuant to subdivision (a), from the lowest ratio to the highest.

33154. The Superintendent of Public Instruction shall prepare a report containing the information computed pursuant to subdivision (b) of Section 33153, and submit it to the Legislature at each regular session. Upon request of the governing body of a school district, including a district specified in subdivision (a) of Section 33150, he shall transmit a copy of the report to the district.

33155. The report which is submitted to the Legislature under this article shall contain no editorial or subjective comment by the Superintendent of Public Instruction, or any other public officer, concerning the information required to be set forth in it.

#### Article 5. Verification of Private School Instruction

33190. Every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level shall between the 1st and 15th day of October of each year, commencing on October 1, 1967, file with the Superintendent of Public Instruction an affidavit or statement, under penalty of perjury, by the owner or other head setting forth the following information for the current year:

(a) All names, whether real or fictitious, of the person, firm, association, partnership, or corporation under which it has done and is doing business.

(b) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation within the State of California.

(c) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of such records.

(d) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(e) The school enrollment, by grades, number of teachers, coeducational or enrollment limited to boys or girls and boarding facilities.

(f) That the following records are maintained at the address stated, and are true and accurate:

- (1) The records required to be kept by Section 48222.
- (2) The courses of study offered by the institution.
- (3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each.

Whenever two or more private schools are under the effective control or supervision of a single administrative unit, such administrative unit may comply with the provisions of this section on behalf of each of the schools under its control or supervision by submitting one report.

Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any school to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, the California State Department of Education, or any division or bureau thereof, or any accrediting agency has made any evaluation, recognition, approval, or endorsement of the school or course unless this is an actual fact.

The Superintendent of Public Instruction shall prepare and publish a list of private elementary and high schools to include the name and address of the school and the name of the school owner or administrator.

33191. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

33191. (a) The Superintendent of Public Instruction and the Attorney General shall take cognizance of the fact that both have definite duties and responsibilities under Sections 33190 to 33192, inclusive.

(b) The Superintendent of Public Instruction shall report any information concerning possible violations of this article to the Attorney General.

(c) The Attorney General shall make such investigations as are necessary to determine whether or not there has been compliance with the provisions of this article

33192. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

33192. The Attorney General is hereby authorized to take such actions as are necessary, including the obtaining of injunctive relief, to enforce the provisions of this article.

### CHAPTER 3. DEPARTMENT OF EDUCATION

#### Article 1. General Provisions

33300. There is in the state government a Department of Education.

33301. The Department of Education shall be administered through:

- (a) The State Board of Education which shall be the governing and policy determining body of the department.

(b) The Director of Education in whom all executive and administrative functions of the department are vested and who is the executive officer of the State Board of Education.

33302. The Department of Education shall be conducted under the control of an executive officer known as the Director of Education.

33303. The Superintendent of Public Instruction is ex officio Director of Education.

33304. The provisions of Article 2 (commencing with Section 11180), Chapter 2, Part 1, Division 3 of Title 2 of the Government Code, shall govern and apply to the conduct of the Department of Education in every respect as if such provisions were herein set forth at length.

33305. Wherever in Article 2 (commencing with Section 11180), Chapter 2, Part 1, Division 3 of Title 2 of the Government Code, the term "head of the department," or similar designation occurs, it shall, for the purposes of Section 33304, of this code mean the Director of Education.

33306. The Department of Education is the successor to, and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Board of Education as they existed on July 30, 1921, of the board of directors of the California School for the Deaf and the Blind, and of the several officers, deputies, and employees of such bodies and offices.

33307. The Department of Education shall be in possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property, real or personal, now or hereafter held for the benefit of the bodies, offices, and officers whose duties, powers, purposes, responsibilities, and jurisdiction are transferred to and vested in the Department of Education.

33308. The Department of Education shall administer and enforce all laws now or hereafter imposing any duty, power, or function upon any of the bodies, offices, officers, deputies, or employees transferred to the Department of Education under the provisions of Section 33306.

33309. In addition to the Division of Libraries of the Department of Education, established by law, the State Board of Education may, upon recommendation of the Director of Education, establish such divisions as in the judgment of the board are necessary for the proper transaction of the business of the department.

33310. With the approval of the Department of General Services, the Department of Education may fix the price for the sale of any bulletin or publication of the department, or any institution of the department.

33311. When the Department of Education fixes the price of any publication, it shall specify the class of persons or institutions that may receive copies of the publication free of charge.

33312. Any county, or any school district, in this state may

purchase the publications described in Sections 33309 to 33313, inclusive, from the Department of Education.

33313. All moneys received from the sale of publications shall be deposited in the State Treasury to the credit of the fund against which the cost of printing the publication was charged.

33314. The State Board of Education may, upon recommendation of the Director of Education, establish in the Department of Education a school library consultant service to assist and advise local school districts in the establishment, development, and improvement of school libraries in the elementary and secondary schools of the state.

33316. The Department of Education shall:

- (a) Revise and update budget manuals, forms and guidelines.
- (b) Cooperate with federal and state agencies in prescribing rules and regulations, and instructions required by such agencies.
- (c) Assess the needs and methods of collecting and disseminating financial information.
- (d) Conduct workshops and conferences for the purpose of training school district and county personnel.
- (e) Provide consultant services to colleges and universities on courses of instruction relative to school budgets and accounting practices.

33317. The Department of Education shall cooperate with the Educational Management and Evaluation Commission and shall as requested by the commission:

- (a) Prepare and compile agenda items and research materials for the commission.
- (b) Prepare and direct the execution of any provisions of agreements entered into by the commission for the formulation of a program budgeting and accounting system.
- (c) Organize pilot projects for testing any program budgeting and accounting system.
- (d) Recommend any change or revision of law necessary to effectuate any program budgeting and accounting system.
- (e) Promote any program of budgeting and accounting system through cooperative working arrangements with interested public and private agencies and associations.
- (f) Coordinate the budgeting and accounting activities of interested public and private agencies and associations.

## Article 2. Finances

33330. The department may expend the money in any appropriation, or in any special fund in the State Treasury now remaining or made available by law for the administration of the provisions of any of the statutes enumerated in this article or for the use, support, or maintenance of any board, commission, office, or officer that is abolished by the provisions of former Section 361, and whose duties, powers, and functions are, by the provisions of Section

33306, transferred to and conferred upon the Department of Education, excepting that the funds of the State Board of Education in respect to functions retained by it, including such funds as are now or may hereafter be entrusted to the State Board of Education for administration, and the funds of the Superintendent of Public Instruction shall be administered as heretofore.

33331. The Department of Education may expend the moneys in any appropriation heretofore or hereafter made for the support of the State Board of Education.

33332. The Director of Education may, with the approval of the Director of Finance, accept on behalf of, and in the name of, the state such gifts, donations, bequests, and devises as may be made to the Department of Education, or to any school or other institution administered by the Director of Education or the Department of Education, which in his judgment would be of benefit to the state and, if made to a school or other institution, would be of benefit to the school or other institution. Gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the Director of Education may deem advisable.

33333. Money received under Section 33332 may, with the approval of the Director of Finance, be deposited by the Director of Education to the credit of the department or of the school or institution designated by him, in accounts in banks or transmitted by him to the State Treasurer for deposit in trust accounts. Withdrawals may be made from any such bank account or trust account by the Director of Education or any employee of the Department of Education authorized by him to make withdrawals therefrom.

33334. All moneys received by or for any school under the jurisdiction of the Department of Education from any agency of the federal government, directly or indirectly, for the education of veterans, is hereby appropriated for the support of such school in addition to such other funds as may be appropriated therefor by the Legislature.

33335. For the purposes of Government Code Section 11032, the following constitute, among other proper purposes of like or different character, state business for officers and employees of the Department of Education for which the officers and employees shall be allowed actual and necessary traveling expenses:

(a) Attending meetings of any national association or organization having as its principal purpose the study of matters relating to education or to a particular field or fields of education, or any agency of such association.

(b) Conferring with officers or employees of the United States, or appearing before committees of either house of the Congress of the United States, relative to problems relating to education in California.

(c) Conferring with officers or employees of other states engaged in the performance of similar duties.

(d) Obtaining information useful to the department in the

conduct of its work.

When traveling is outside the state, traveling and expense shall be approved by the Governor and Director of Finance as provided in Government Code Section 11032.

33336. The Director of Education, subject to such additional conditions as the State Board of Education may establish, may purchase annuity contracts for permanent employees of the California Department of Education and the California Maritime Academy, and shall reduce the salary of an employee for whom such contract is purchased by the amount of the cost thereof provided that all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code of 1954 of the United States and Section 17512 of the Revenue and Taxation Code.

(b) The employee makes application to the director for such purchase and reduction of salary.

(c) All provisions of the Insurance Code and the Government Code applicable to the purchase of such annuities are satisfied.

### Article 3. Educational Programs

33350. The Department of Education shall:

(a) Adopt such rules and regulations as it deems necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools.

(b) Compile or cause to be compiled and printed a manual in physical education for distribution to teachers in the public schools of the state.

33351. The Department of Education may employ the necessary expert and clerical assistants in order to carry out the provisions of this article.

33352. The Department of Education shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; exercise general control over all athletic activities of the public schools; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.

### Article 4. Workshops

33360. The Department of Education and a statewide association composed exclusively of school district governing boards or county boards of education, or both, acting jointly, may conduct annual workshops within this state. Such workshops shall include but are not limited to study and instruction on the subjects of school finance, the Education Code and related laws, and the ethics, duties, and responsibilities of school district governing boards and county boards of education. A reasonable fee not to exceed the estimated pro rata

cost of the workshop may be charged board members and members-elect who attend.

33361. The Department of Education shall maintain a permanent record of each school district and county board of education member who successfully completes a workshop and shall issue a certificate of completion to such member.

33362. Any member or member-elect of a school district governing board who attends and successfully completes a workshop as authorized by this article may be reimbursed for expenses as provided for in Section 35173.

33363. Any member or member-elect of a county board of education who attends and successfully completes a workshop as authorized by this article may be reimbursed for expenses as provided for in Section 1096.

#### Article 5. Bureau of Indian Education

33370. There is in the Department of Education a Bureau of Indian Education which shall study and identify the cultural and educational disadvantages affecting American Indian children in the present existing public school system.

33371. The Indian Coordinator shall be in charge of the Bureau of Indian Education and his selection shall be made by the Superintendent of Public Instruction.

33372. The Indian Coordinator shall be responsive to the Superintendent of Public Instruction and shall meet and consult with the Equal Educational Opportunities Commission.

#### Article 6. California Indian Education Centers

33380. The Legislature hereby finds and declares that Indian children have not succeeded well in California public schools as evidenced by low academic achievement at all grade levels, high dropout rates and by the few students continuing their education beyond high school.

It is the intent and purpose of the Legislature to strengthen the instructional program within the public schools by establishing 10 California Indian education centers.

33381. The California Indian education centers established pursuant to this article shall serve as educational resource centers in Indian communities to the Indian students, parents, and the public schools. The centers shall be designed to:

(a) Improve the academic achievement of Indian students with particular emphasis on reading and mathematics.

(b) Improve the self-concept of Indian students and adults.

(c) Increase the employment of Indian adults.

(d) Serve as a center for related community activities.

(e) Provide tutorial assistance to students in reading and mathematics.

(f) Provide individual and group counseling to students and adults related to personal adjustment, academic progress, and vocational planning.

(g) Provide coordinated programs with the public schools.

(h) Provide a neutral location for parent-teacher conferences.

(i) Provide a focus for summer recreational sports and academic experience.

(j) Provide adult classes and activities.

(k) Provide college-related training programs for prospective Indian teachers.

(l) Provide libraries and other related educational material.

33382. The State Board of Education, upon the advice and recommendations of the Superintendent of Public Instruction, shall adopt guidelines for the selection and administration of the California Indian education centers.

33383. Application for the establishment of a California Indian education center may be made to the State Board of Education by any tribal group or incorporated Indian association, either separately or jointly, upon forms provided by the Department of Education. The State Board of Education shall select up to 10 applicants for such centers.

33384. The Department of Education shall annually evaluate the California Indian education centers and report its findings and recommendations to the Legislature prior to February 1st of each year.

#### Article 7. California Maritime Academy

33390. There is within the Department of Education a California Maritime Academy.

### CHAPTER 4. STATE EDUCATIONAL COMMISSIONS AND COMMITTEES

#### Article 1. General Provisions

33500. The Legislature hereby declares that there is further need to encourage the adoption of new or improved educational ideas, practices, and techniques in solving critical educational problems in preschool, elementary and secondary schools throughout the state. Recognizing the need for the planning and developing of new programs involving a wide range of new approaches designed to improve the quality of education available in this state, this chapter is expressly enacted to foster innovation and create change in education, based on research and proven need. It is the intent of this chapter to bring purposeful change and experimentation to schools throughout the state, through the use of all available resources of the state.

The Legislature further finds that there are in existence a large

number of permanent commission, committees and councils, some of which have overlapping duties and functions, and some of which have been perpetuated beyond the original need or purpose for which created. In order to provide a more economical, efficient and logical structure to educational policymaking, it is the intent of the Legislature to create three levels of educational advisory bodies: educational policy advisory commission, educational advisory committees, and educational task forces.

33501. The following definitions shall apply to educational advisory bodies created by this chapter:

(a) An "educational policy advisory commission" is an advisory body to the State Board of Education composed of professional and lay members, as defined by this code. Such groups are established to advise the State Board of Education within the general policy areas to which they are charged. The Superintendent of Public Instruction or his representative shall serve as executive secretary to each educational policy advisory commission.

(b) An "educational advisory committee" is an advisory body to the Superintendent of Public Instruction composed of educational specialists, technical experts, or specially qualified members of the public, or any combination thereof. Such committees are established to advise the Superintendent of Public Instruction on the administration of programs with which he is charged, and such committees serve at his pleasure.

## Article 2. Educational Innovation and Planning Commission

33502. There is in the state government the Educational Innovation and Planning Commission consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and 15 public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

The 15 public members appointed by the State Board of Education shall be selected for their familiarity, standing, competence, and attainment in research methods applicable to the physical, behavioral, and management sciences. One member shall be an elementary school teacher, one member shall be a secondary school teacher, one member shall be a recognized specialist in the field of special education, one member shall be a representative of institutions of higher education, one member shall be a recognized specialist in urban educational problems, one member shall be a representative of private elementary and secondary schools, one member shall be a representative of disadvantaged low-income areas, one member shall be a leader from private industry with direct

concern and involvement in the development of new techniques in the fields of education and communication, one member shall be a representative of guidance and counseling, one member shall be a recognized specialist in education of students of limited-English-speaking ability, one member shall be a recognized specialist in the use of libraries and learning resources, one member shall be a recognized specialist in the education of the gifted and talented, and three members shall be representatives of the general public.

The State Board of Education upon recommendation from the Superintendent of Public Instruction is empowered to add to the 15 public members of the commission as required to fully conform to federal legislation and regulations.

33503. The Members of the Legislature appointed to the commission pursuant to Section 33502 shall have the powers and duties of a joint legislative committee on the subject of educational innovation and planning and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

33504. The Superintendent of Public Instruction or his representative shall serve as executive secretary to the commission.

33505. The commission, in carrying out its powers and duties, shall utilize the staff of the Department of Education.

33506. The members of the commission shall serve without compensation, except that they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses.

33507. The commission shall select one of its members to be chairman of the commission.

33508. Commission members shall serve for four-year terms and shall not be eligible to serve more than one full term. Prior service on the commission for a term of less than three years resulting from an initial appointment or an appointment for the remainder of an unexpired term shall not be counted as a full term.

33509. As used in this article:

(a) "Commission" means the Educational Innovation and Planning Commission.

(b) "Title III" means Title III of the Elementary and Secondary Education Act of 1965, as amended.

(c) "Title IV" means Title IV, Parts A, B, and C of the Educational Amendments of 1974 (Public Law 93-380) as amended.

(d) "State plan" means the annual plan for the use of Title III or Title IV funds as approved by the State Board of Education.

(e) "Secondary schools," notwithstanding Section 52, shall not include community colleges.

(f) "Local educational agency" means the governing body of any school district or county office of education.

33510. For purposes of this article, the commission shall have the powers, duties, and responsibilities of a state advisory council prescribed in Title III or as superseded by Title IV.

33511. The commission shall have the power and authority to:

(a) Advise the State Board of Education on the preparation of, and policy matters arising in the administration of, the state plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under Title III and Title IV.

(b) Prepare at least annually and submit to the State Board of Education a report of its activities, recommendations, and evaluation. The State Board of Education shall report the activities of the commission to the Governor and the Legislature.

(c) Assist the State Board of Education and the Department of Education in the planning, development, and improvement of educational programs.

(d) Provide for the evaluation of all programs and projects funded under Title III and Title IV, examine the reported effectiveness of various educational programs, and promote and approve innovative programs and schools.

33512. All projects recommended by the commission shall be submitted to the State Board of Education for its approval.

33513. The State Board of Education shall allocate funds under Title III and Title IV, Part C, excluding those funds received for the purposes of strengthening state and local educational agencies, to provide to the extent feasible a geographical spread of experimental projects in the state. All such grants for a particular project shall be limited to a three-year period excepting exemplary projects as provided in Sections 33521 and 33522. All applications for such grants shall show in their evaluation the cost-effectiveness relationships of such programs developed as they relate to currently used methods.

33514. The State Board of Education shall annually allocate, insofar as practicable, 15 percent of the total amount of federal funds received by the State of California pursuant to Title III or Title IV, Part C, excluding those funds received for the purposes of strengthening state and local educational agencies, for special education projects. At least 40 percent of such funds shall be used for the purposes of Section 33515.

33515. Priority for experimental, demonstration, or operational projects shall be given to the following:

(a) A language development program or a mathematics program, or both, given in the elementary or secondary grades or both. For purposes of this article, "language development" includes the elements of reading, writing, spelling, speaking, and listening, and comprehension of ideas and concepts.

(b) An in-service and preservice training program for elementary or secondary teachers or both developed with local institutions of higher education. Such programs shall emphasize the improvement of specific classroom teacher skills required to instruct language

development and mathematics.

33516. In order to be deemed an approved project and be eligible to receive an allocation from the State Board of Education, an experimental, demonstration, or operational project shall meet the following criteria:

(a) The proposed activities are not activities presently being performed by other state and federal programs.

(b) The proposed activities supplement, but do not supplant, other state or federal programs.

33517. Special consideration shall be given to applications which meet the following criteria:

(a) The target school has an above average number of pupils whose reading achievement scores fall within the first quartile, as measured by the most recently administered statewide reading test;

(b) The application includes comprehensive evaluation plans.

33518. The State Board of Education may reserve a sum of money, to be recommended by the commission and approved by the State Board of Education, to support demonstration and experimental projects designed to develop new methods of allocating personnel, equipment, and facilities to solve educational problems associated with educational management. Such projects may include, but need not be limited to, the development of new and potentially more economical staffing, arrangements for administration and for classroom instruction, a modification of class size in schools, the utilization of classroom aides, flexible class scheduling, and the use of instructional television and audiovisual equipment so as to more effectively utilize local resources. Also included may be projects for educational problems associated with general curriculum development, community relations, urbanization, and work-study programs. The standards for such demonstrational and experimental projects shall be recommended by the commission and approved by the State Board of Education, based upon the best interests of the students involved, except that a project shall be approved only if it can be shown that, if successful, the cost effectiveness of the project will be such so as to be adaptable within the budgets of other similar school districts throughout the state.

33519. Any local educational agency operating a project funded under this article shall submit at least an annual evaluation which shall document the degree to which the project has improved the achievement levels of pupils in the instructional areas emphasized within the grant. Such evaluations shall be reviewed by the State Board of Education.

33520. The State Board of Education shall submit an annual comprehensive report to the Governor and the Legislature which shall document:

(a) Improved achievement levels resulting from the projects.

(b) The degree to which the program has motivated schools, both participating and nonparticipating in the program, to improve their

curriculum in language development and mathematics and other instructional areas emphasized in grants approved.

(c) The numbers of programs continued by the original local educational agencies.

(d) The results of the dissemination and diffusion efforts by exemplary projects funded pursuant to Sections 33521 and 33522.

33521. The commission shall identify and submit to the State Board of Education up to 25 projects conducted during the current year as "exemplary projects." Priority shall be given to projects which exhibited the greatest degree of success in achieving their objectives, with the highest priority given to those which demonstrate the greatest gain in achievement levels. Such exemplary projects may include projects funded pursuant to this article and similar projects selected from other funding sources which address state priorities. Information concerning such exemplary projects shall be disseminated to all local educational agencies in the state which maintain the grade levels involved in such projects.

33522. The State Board of Education shall reserve not more than 15 percent of the state's federal allocation under Title III or Title IV, Part C, excluding those funds received for the strengthening of state and local educational agencies, for incentive grants to the local educational agencies which have operated exemplary projects during the preceding year. Such funds shall be used by such local educational agencies to expand the projects locally and for dissemination/diffusion of such successful projects statewide.

### Article 3. Curriculum Development and Supplemental Materials Commission

33530. There is in the state government the Curriculum Development and Supplemental Materials Commission consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and 13 public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

So far as is practical and consistent with the duties assigned to the commission by the State Board of Education, at least seven of the 13 public members appointed by the State Board of Education shall be persons, who because they have taught, written, or lectured on the subject matter fields specified in Section 33533, in the course of public or private employment, have become recognized authorities or experienced practitioners in such fields. At least three of the 13 public members appointed by the State Board of Education shall be full-time classroom teachers assigned to teach any of grades 1 to 8, inclusive.

33531. The Members of the Legislature appointed to the commission pursuant to Section 33530 shall have the powers and duties of a joint legislative committee on the subject of curriculum development and supplemental materials and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

33532. (a) Commission members shall serve for four-year terms and shall not be eligible to serve more than one full term. Prior service on the commission for a term of less than three years resulting from an initial appointment or an appointment for the remainder of an unexpired term shall not be counted as a full term.

(b) With respect to the appointment of 13 public members by the State Board of Education to the first commission, four shall be appointed for terms of two years, four shall be appointed for terms of three years, and five shall be appointed for a term of four years.

33533. The Superintendent of Public Instruction and the State Board of Education shall consider for membership on the commission persons representing subjects commonly taught in public schools, including:

- (a) English
- (b) Social sciences
- (c) Foreign languages
- (d) Science
- (e) Mathematics
- (f) Fine arts
- (g) Applied arts
- (h) Conservation education

33534. The Superintendent of Public Instruction or his representative shall serve as executive secretary to the commission.

33535. The members of the commission shall serve without compensation, except that they shall receive their actual and necessary travel expenses in attending meetings of the commission and in attending meetings of any committee or subcommittee of the commission of which they are members. Expenses of the commission shall be paid out of appropriations made to the Superintendent of Public Instruction or the Department of Education.

33536. The commission shall select one of its members to be chairman of the commission.

33537. Whenever an employee of any public school district, state college, or other public agency is appointed to membership on the commission, his employer shall grant him sufficient time away from his regular duties, without loss of income or other benefits to which he is entitled by reason of his employment, to attend meetings of the commission and to attend to the duties imposed upon him by reason of his membership on the commission. The employer of any such

member may make available such stenographic, secretarial, and staff assistance as is reasonably necessary to enable him to execute the duties imposed upon him by reason of his membership on the commission.

33538. The commission shall study problems of courses of study in the schools of the state and shall, upon request of the State Board of Education, recommend to the State Board of Education the adoption of minimum standards for courses of study in preschool, kindergarten, elementary, and secondary schools. Courses of study in the public schools shall conform to such minimum standards when adopted.

33539. As used in this article, "commission" means the Curriculum Development and Supplemental Materials Commission.

#### Article 4. Educational Management and Evaluation Commission

33550. There is in the state government the Educational Management and Evaluation Commission consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and nine public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

With respect to the nine public members appointed by the State Board of Education, three members shall represent the field of economics, three members shall represent the learning sciences, and three members shall represent the managerial sciences.

Each public member shall serve at the pleasure of the appointing power.

33551. The Members of the Legislature appointed to the commission pursuant to Section 33551 shall have the powers and duties of a joint legislative committee on the subject of educational management and evaluation and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

33552. The members of the commission shall serve without compensation, except that they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including travel expenses.

33553. The Superintendent of Public Instruction or his representative shall serve as executive secretary to the commission.

33554. The commission shall select one of its members to be chairman of the commission.

33555. The commission shall assist and advise the State Board of

Education in the evaluation of the program achievement of educational programs, in the determination of the relative cost effectiveness of educational programs, and shall make recommendations concerning the expanded use, modification, or replacement of educational programs so as to produce a higher degree of program achievement and cost effectiveness. The commission shall also serve as an advisory body to the State Board of Education on program budgeting and accounting systems for school districts.

33556. As used in this article, "commission" means the Educational Management and Evaluation Commission.

#### Article 5. Equal Educational Opportunities Commission

33570. There is in the state government the Equal Educational Opportunities Commission consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and 10 public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

The State Board of Education shall consider representation of the groups that are served.

Each public member shall serve at the pleasure of the appointing power.

33571. The Members of the Legislature appointed to the commission pursuant to Section 33570 shall have the powers and duties of a joint legislative committee on the subject of equal educational opportunities and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

33572. The members of the commission shall serve without compensation, except they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including travel expenses.

33573. The Superintendent of Public Instruction or his representative shall serve as executive secretary to the commission.

33574. The commission shall select one of its members to be chairman of the commission.

33575. The commission shall assist and advise the State Board of Education and shall formulate and present such policy recommendations as it determines necessary to insure equal educational opportunities for all students and effect statewide coordination of programs for education of disadvantaged minors.

33576. The commission shall regularly recommend to the State Board of Education educational programs to meet the needs of Indians native to the United States.

33577. As used in this article, "commission" means the Equal Educational Opportunities Commission.

#### Article 6. Advisory Commission on Special Education

33590. There is in the state government the Advisory Commission on Special Education consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and nine public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

Each public member shall serve at the pleasure of the appointing power.

33591. The Members of the Legislature appointed to the commission pursuant to Section 33590 shall have the powers and duties of a joint legislative committee on the subject of special education and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

33592. The members of the commission shall serve without compensation, except they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses.

33593. The Superintendent of Public Instruction or his representative shall serve as executive secretary to the commission.

33594. The commission shall select one of its members to be chairman of the commission.

33595. The commission shall study and provide assistance and advice to the State Board of Education in new or continuing areas of research, program development, and evaluation in special education.

33596. As used in this article, "commission" means the Advisory Commission on Special Education.

## DIVISION 3. LOCAL ADMINISTRATION

## PART 21. LOCAL EDUCATIONAL AGENCIES

## CHAPTER 1. SCHOOL DISTRICTS

## Article 1. Naming

35000. The first governing board of any new school district shall, at the first meeting of the board or as soon as practicable thereafter, name the district.

The name of an elementary district shall be in the form of "\_\_\_\_\_ District (using the name of the district), of \_\_\_\_\_ County" (using the name of the county in which the district is situated). The name of an elementary district shall not include a number or the word "elementary."

The name of a unified school district shall be in the form of "\_\_\_\_\_ (using the name of the district) Unified School District." A number shall not be used as a part of the designation of any unified school district.

Any union high school district or joint union high school district shall be so designated as part of its name.

35001. Whenever a petition is presented to the board of supervisors, signed by at least 15 qualified electors of any school district, asking that the name of the district be changed, the board of supervisors shall designate a day upon which it will act upon the petition, which shall not be less than 10 days nor more than 40 days after the receipt of the petition.

The clerk of the board of supervisors shall give notice to all parties interested by sending by registered mail to each of the governing board members of the school district a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, the clerk shall notify the county superintendent of the change of the name of the district.

35002. In addition to the procedures set forth in Sections 35000 and 35001, a petition may be presented to the superintendent of schools having jurisdiction of any high school district signed by at least two-thirds of the members of the governing board of the high school district asking that the name of the district be changed and stating the new name desired. The procedure shall thereafter be the same as is provided for electors' petitions in Section 35001, except:

(a) The clerk of the board of supervisors shall give notice to all persons interested, by publication in a newspaper published within the high school district, or, if there is none, then in any newspaper published in the county, of the time set for the hearing of the petition, instead of by registered mail. The notice shall be published at least twice before the day set for hearing.

(b) In addition to notification of the county superintendent of schools, the change shall be certified to the county clerk of each county in which any part of the high school district is situated and entered by him in his record of high school districts.

## Article 2. General Provisions

35010. Every school district shall be under the control of a board of school trustees or a board of education.

35011. Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members shall be elected in each odd-numbered year.

35012. A unified school district formed pursuant to the provisions of Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1 may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of such board shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

35013. Notwithstanding the provisions of Section 35011, and except as provided in this section and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

35014. The governing board of each school district shall prescribe and enforce rules not inconsistent with law or with the rules prescribed by the State Board of Education, for its own government.

## Article 3. Officers and Agents

35020. The governing board of each school district shall fix and prescribe the duties to be performed by all persons in public school service in the school district.

35021. Notwithstanding any other provisions of law, any person may be permitted by the governing board of any school district to perform the duties specified in Section 44814 or 44815, or to serve as a nonteaching volunteer aide under the immediate supervision and direction of the certificated personnel of the district to perform noninstructional work which serves to assist such certificated personnel in performance of teaching and administrative responsibilities. Such a nonteaching volunteer aide shall not be an employee of the school district and shall serve without compensation of any type or other benefits accorded to employees of the district,

except as provided in Section 35212 of the Education Code and Section 3364.5 of the Labor Code.

No district may abolish any of its classified positions and utilize volunteer aides, as authorized herein, in lieu of classified employees who are laid off as a result of the abolition of a position; nor may a district refuse to employ a person in a vacant classified position and use volunteer aides in lieu thereof.

It is the intent of the Legislature to permit school districts to use volunteer aides to enhance its educational program but not to permit displacement of classified employees nor to allow districts to utilize volunteers in lieu of normal employee requirements.

35022. Every school district governing board consisting of five or more members shall, at its initial meeting and at each annual meeting, elect a president from among its members.

35023. The governing board of each school district of every kind or class shall annually at its initial meeting select one of its members as its representative who shall have one vote for each member to be elected to the county committee provided by Article 4 (commencing with Section 4290) of Chapter 2 of Part 3 of Division 1 of Title 1. The secretary or clerk of the district shall furnish the county superintendent of schools with a certificate naming the representative selected by the board.

35024. The governing board of any school district may appoint an executive committee. In the case of a governing board which has appointed a clerk, the committee shall consist of the president, the clerk, and one other member of the board. In the case of a governing board which has not appointed a clerk the committee shall consist of the president and two members of the board. The committee shall attend to the routine business of the board. Its action shall be reported to the board for ratification at its first meeting ensuing.

35025. The governing board of any school district may employ a person not a member of the board to act as secretary and bookkeeper for the board, and may delegate to such secretary the duties prescribed in paragraphs (a) and (c) of Section 35250.

35026. The governing board of any school district employing eight or more teachers may employ a district superintendent for one or more schools and may delegate to the district superintendent any of the duties provided for in Section 35250.

35027. The governing board of any school district employing a district superintendent of schools and having an average daily attendance of 1,500 or more pupils may employ such deputy, associate, and assistant district superintendents of schools as the board deems necessary.

35028. No person shall be eligible to hold a position as city superintendent, district superintendent, deputy superintendent, associate superintendent, or assistant superintendent of schools unless he is the holder of both a valid school administration certificate and a valid teacher's certificate, but any person employed as a deputy, associate, or assistant superintendent in a purely clerical

capacity shall not be required to hold any certificate.

35029. A local governing board may waive any credential requirement for the chief administrative officer of the school district under its jurisdiction. Any individual serving as the chief administrative officer of a school district who does not hold a credential may be required by the local governing board to pursue a program of in-service training conducted pursuant to guidelines approved by the commission.

No individual serving as the chief administrative officer of a school district shall be subject to the provisions of the merit system specified in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of this division or any other similar merit system.

35030. No governing board or county superintendent of schools shall affix the title of deputy, associate or assistant superintendent to any position not defined by this code as a position requiring certification qualifications or which does not qualify under the provisions of Section 44065 as a position requiring certification qualifications; except that any such title may be assigned to the position of business manager or a related business position but such position shall not, if so designated, be deemed to be a position requiring certification qualifications nor shall the employee be deemed to be a certificated employee.

35031. Any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, may be elected for a term of four years. The governing board of any school district, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the superintendent of schools, or any associate, deputy, or assistant superintendent of schools of the district, and reelect or reemploy the employee, on such terms and conditions as may be mutually agreed upon by the board and the employee, for a new term to commence on the effective date of the termination of the existing term of employment. In the event the governing board of a school district determines the superintendent of schools of the district is not to be reelected or reemployed as such superintendent upon the expiration of his term, the superintendent of schools shall be given written notice thereof by the governing board at least six months in advance of the expiration of his term. In the event the governing board of a district fails to reelect or reemploy the superintendent of schools of the district as such superintendent and the written notice herein provided for has not been given, the superintendent of schools shall be deemed reelected for a term of the same length as the one completed, and under the same terms and conditions and with the same compensation.

35032. Notwithstanding Section 35031, the governing board of a school district may at any time during any school year increase the salaries of any district superintendent of schools and deputy, associate, or assistant superintendent of schools without terminating

the term of employment of, and reelecting or reemploying, such employee and such increase may be effective on any date ordered by the governing board.

35033. If a unified school district is formed pursuant to Chapter 2 (commencing with Section 4200) of Part 3, of Division 1 of Title 1 to include all the territory of one or more elementary school districts, the governing board of the unified district may elect and reelect as district superintendent of schools of the unified district, or as deputy, associate, or assistant superintendent of schools of the unified district, for a four-year term, a person employed as district superintendent of schools of one of such elementary school districts at the time of the formation of the unified school district. The person may perform service in the position for the unified district for the term to which he is elected or reelected without possessing the certification document otherwise required if he has served continuously as district superintendent of the elementary district for at least 10 years prior to the formation of the unified district and if he is elected as district superintendent of schools of the unified district or as deputy, associate or assistant superintendent of schools of the unified district pursuant to this section.

35034. (a) The members of the governing board of each unified school district may elect a superintendent of schools for a term of not more than four years, who shall be executive officer and secretary of said governing board. Where the entire area of a county is included within one unified school district or where the entire area of a county is included within one unified school district except for such portions of the county as are included in a school district which is under the jurisdiction of the county superintendent of schools of another county, the county superintendent of schools may be employed as the superintendent of schools of the unified school district; provided, he is the holder of a certification document authorizing him to perform such services. If a county superintendent of schools is employed as the superintendent of schools of a unified school district, he may be paid such salary, in addition to that provided by law for his office of county superintendent of schools, as he and the governing board of the unified school district may agree upon.

(b) Any county superintendent of schools who was employed as a district superintendent of a unified school district on or before September 20, 1963, may continue to perform such services without possessing the certification document otherwise required as long as he remains continuously employed or reemployed in his position.

(c) Where the entire area of a county is included within one unified school district except for such portions of the county as are included in a school district which is under the jurisdiction of the county superintendent of schools of another county, the person who was county superintendent of schools at the time the unified school district was formed may be employed as the superintendent of schools of the unified school district without possessing the certification document otherwise required as long as he remains

continuously employed or reemployed in his position.

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

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

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

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

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

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

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

(g) Submit reports showing the financial and budgetary conditions of the district, including outstanding obligations, to the governing board at least once every three months during the school year.

35036. The clerk of a district shall perform all duties prescribed in Section 35250 not delegated by the governing board to the secretary or to the district superintendent.

35037. Except as provided in Section 35121, the clerk shall be a member of the board.

35038. In any district the governing board of which is required to elect a clerk, the superintendent of schools of the county shall appoint one of the members of the governing board to fill the office of district clerk if a clerk is not elected by the governing board on the date prescribed, or if, except as provided in Section 35039, a vacancy occurs in the position of district clerk.

35039. If the clerk of the district refuses to perform the duties prescribed in Section 35250 or by the governing board, the board may at a regular meeting dismiss him and appoint another member clerk. It shall immediately notify the superintendent of schools of the

county of its action.

35040. The clerk, secretary, and superintendent of the district shall, in addition to the duties prescribed by this chapter, perform such other duties as may be prescribed by the governing board of the district.

35041. Anything in a city, county, or city and county charter to the contrary notwithstanding, the governing board or boards of any school district may appoint an administrative adviser and fix and order paid his compensation. The duties of the administrative adviser are to render administrative advice to the superintendent of schools and to other officers and employees of the school district such other administrative duties as may be assigned by the superintendent of schools and the governing board of the district, and to assist the legal counsel of the district in the preparation and conduct of school district litigation. The employee shall have been admitted to practice law in the state, and shall not be required to have any certification qualifications.

35041.5. Anything in a city, county, or city and county charter to the contrary notwithstanding, the governing board of any school district or the governing boards of any school districts and any county superintendent of schools may, in lieu of appointing an administrative adviser pursuant to Section 35041, appoint a legal counsel and fix and order paid his compensation. The duties of the legal counsel may include rendering legal advice to the superintendent of schools and to other officers and employees of the school district or districts and such other administrative duties as may be assigned by the superintendent of schools and the governing board of the district or governing boards of the districts, and serving as the legal counsel of the district or districts in the preparation and conduct of school district litigation and administrative proceedings, and rendering advice in relation to school bond and tax increase measures and prepare all legal papers and forms necessary for the voting of school bonds and tax increase measures in the district or districts. The person appointed as legal counsel shall have been admitted to practice law in the state, and shall not be required to have any certification qualifications.

Neither the county counsel or district attorney shall have a duty to perform for a school district or districts any legal services which the legal counsel, while employed by such district or districts, is authorized by this section to perform and which are assigned to legal counsel by the superintendent of schools or the governing board of a district or governing boards of the districts.

In the event a district or districts ceases to employ legal counsel and requests the resumption of legal services by the county counsel or district attorney, the district or districts shall notify the county counsel or district attorney of such fact on or before January 1 of the year preceding the fiscal year in which services are to be resumed.

35042. The governing board of each school district may employ a principal for each school under its control.

35043. Whenever in their judgment it is deemed advisable, the governing boards of any two or more school districts may jointly employ a supervising principal or a supervisor of instruction, who shall devote such time to the supervision of instruction in the several school districts as may be agreed upon by the several boards of trustees.

35044. The governing board of each school district shall provide for the payment of the traveling expenses of any representatives of the board when performing services directed by the board.

35045. The governing board of any school district having an average daily attendance of 10,000 or more may appoint a director of school building planning, who shall be a person qualified by training, experience and demonstrated ability to manage the building, construction and contracting business of the district. The director shall be responsible for the coordination of the building program of the district and shall advise the superintendent of schools and other employees of the district with respect to the negotiation and performance of school building construction contracts let by the governing board of the school district.

## CHAPTER 2. GOVERNING BOARDS

### Article 1. Membership

35100. Within 15 days after the action necessary for the formation of any elementary school district or high school district is completed, the county superintendent of schools shall appoint an interim governing board.

Within 15 days after the action necessary for the formation of any joint or joint union elementary school or high school district is completed, the county superintendent of schools having jurisdiction over the district shall appoint a majority of the members of an interim governing board. If the new district is in two counties, the other county superintendent shall appoint the rest of the interim governing board members within such 15-day period. If the new district is in more than two counties, the other county superintendents shall appoint the rest of the interim governing board members within such 15-day period as may be agreed upon by them. If they cannot agree within such 15-day period, the county superintendent who appointed the majority of the interim governing board members shall appoint the rest of the members.

The term of each governing board member so appointed shall expire on the April 1st following the election of the first elected governing board of the district.

If a majority of the members of the interim governing board of the school district is not appointed and qualified within such 15-day period, the county superintendent of schools having the power to appoint the interim governing board, or a majority thereof, shall assume the powers and duties belonging to the governing board until

a majority of the governing board is selected and qualified.

35101. In newly formed unified school districts there shall be no interim governing board, but the county superintendent of schools having jurisdiction over the particular district shall call an election for the purpose of choosing the first governing board of the district.

In unified school districts the call shall be issued not later than the fourth Tuesday of December next succeeding the creation of the district. The election shall be held on the first Tuesday after the first Monday in March next succeeding the call. The first members of the governing board of either form of district shall take office on the day the canvass of the election is certified by the county superintendent of schools. The first meeting of the governing board shall be called by the county superintendent of schools not later than the third Monday following the election. The term of office of subsequent members of the board shall begin on April 1st following their election.

35102. Within 20 days after the appointment or election of the interim or initial governing board of any newly formed district, the county superintendent of schools having jurisdiction over the district shall call a meeting of the board, by giving each member of the board at least 10 days' notice of such meeting by registered mail. At the meeting the board shall appoint such officers as boards of its class are required to appoint at annual meetings pursuant to Article 3 (commencing with Section 35140) of Chapter 2 of this division, name the district pursuant to Article 1 (commencing with Section 35000) of Chapter 1 of this part and may conduct or transact any other business relating to the affairs of the district which can properly be conducted or transacted at a regular meeting of the board.

35103. In newly formed districts for which an interim governing board is appointed by the county superintendent of schools, a governing board member election shall be held:

(a) When the action necessary for the formation of a new school district is completed on or before the first of January of any odd-numbered year, on the first Tuesday after the first Monday in March of such year.

(b) When the action necessary for the formation of a new school district is completed after the first of February of any year, whether even numbered or odd numbered, on the first Tuesday after the first Monday in March of the next succeeding year.

The terms of the members elected at the initial election shall begin on the first day of April, and the terms of their predecessors shall expire on the 31st day of March, following the election.

35104. Except as otherwise provided in this article, and notwithstanding the provisions of Section 35101, the county superintendent of schools having jurisdiction may consolidate the election for the purpose of electing the governing board of a unified school district proposed to be formed under Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1 with the election held for adopting or rejecting the plans and recommendations for

the formation of a new district. The election shall be called, held, and conducted pursuant to the provisions of this article, Article 1 (commencing with Section 5000) of Chapter 1 of Part 4 of Division 1 of Title 1, of this chapter, and Chapter 3 of Part 4 of Division 1 of Title 1, except that the question of formation of a unified school district and any other proposition to be voted upon shall appear on the ballot before the list of candidates for election to the governing board of the proposed unified district.

35105. Subject to the procedures prescribed by Sections 5010 and 5007 with respect to newly formed unified school districts, the majority of members of the first elected board of any newly formed school district, the members of which majority received the highest number of votes, shall serve until March 31 of the second succeeding odd-numbered year. The other members' terms shall expire on March 31 of the first succeeding odd-numbered year. All such members shall continue in office until their successors are elected and qualified.

35106. When a member of the governing board of a school district which is being reorganized and which will cease to exist takes office as a member of the initial or interim governing board of a newly formed school district, he shall cease to be a member of the governing board of the district being reorganized.

The county board of education shall then appoint another person who is eligible to serve on the governing board of the district being reorganized to the vacant position for the duration of the existence of the district being reorganized, but in no case for longer than 12 months.

35107. Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district.

## Article 2. Officers and Agents

35120. (a) In any school district in which the average daily attendance for the school year 1963-1964 exceeded 400,000, each member of the city board of education or the governing board of the district may receive as compensation for his services the sum of one hundred dollars (\$100) for each meeting of the board actually attended, not to exceed one thousand dollars (\$1,000) per month. In any school district in which the average daily attendance exceeds 60,000, and which is not located in a city and county, or in any school district in which the average daily attendance exceeded 60,000 in the 1963-64 school year and was less than 60,000 in the 1972-73 school year or any subsequent school year, and which is not located in a city and county, the governing board may prescribe, as compensation for the services of each member of the board, the sum of seventy-five dollars (\$75) for each meeting of the board actually attended, not to

exceed seven hundred fifty dollars (\$750) in any month. In any school district in which the average daily attendance for the school year 1972-1973 was less than 60,000, except a district which also comes within the terms of the preceding sentence, but more than 25,000, each member of the city board of education or the governing board of the district may receive as compensation for his services not to exceed forty dollars (\$40) for each meeting of the board actually attended, not to exceed three hundred dollars (\$300) in any month. In any school district in which the average daily attendance for the school year 1972-1973 was 25,000 or less but more than 10,000, each member of the city board of education or the governing board of the district may receive as compensation for his services not to exceed thirty dollars (\$30) for each meeting of the board actually attended, but not to exceed two hundred dollars (\$200) in any month. In any school district in which the average daily attendance for the school year 1972-1973 was 10,000 or less but more than 1,000, each member of the city board of education or the governing board of the district may receive a compensation for his service not to exceed twenty dollars (\$20) for each meeting of the board actually attended, not to exceed one hundred twenty dollars (\$120) in any month. In any school district in which the average daily attendance for the 1972-1973 school year was 1,000 or less but more than 150, each member of the city board of education or the governing board of the district may receive as compensation for his services not to exceed ten dollars (\$10) for each meeting of the board actually attended, but not to exceed sixty dollars (\$60) in any month.

(b) The compensation of members of the governing board of a school district newly organized or reorganized after June 30, 1973, shall be governed by subdivision (a). For such purposes the total average daily attendance in all of the schools of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the school year 1972-73.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and spread upon its minutes finds that at the time of the meeting he is performing services outside the meeting for the school district or districts. The compensation shall be a charge against the funds of the school district. If the city board of education or the governing board of the district is the governing board of more than one school district the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them. Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city board of education from any funds of the city.

35121. In any school district organized under the provisions of Section 35502 and which is also a high school district, and which districts are governed by a board of school trustees, and which districts have an average daily attendance in the elementary school

district of at least 800, as shown by the last report of the principal of schools in the elementary school district, on file in the office of the county superintendent of schools, the trustees of the school district may appoint a clerk, who shall not be one of their own number, to act for the elementary district trustees and the high school district trustees to hold office at the pleasure of the board of trustees. The board may fix the salary of the clerk at a sum not exceeding twenty-five dollars (\$25) per month for the two districts, which shall be paid in the same manner and from the same funds as other incidental expenses of the districts are paid.

35122. In each city school district governed by a city board of education, the board may employ a city superintendent of schools and such associate superintendents of schools, and deputy or assistant city superintendents of schools as it deems necessary, and may fix and order paid their compensation, unless otherwise prescribed by law. A city superintendent of schools may be elected for a term of not more than four years. Any associate, deputy, or assistant city superintendent of schools may be elected for a term of not more than four years.

35123. Each deputy, assistant, or associate school superintendent of any city or city and county may receive such compensation as the board of education prescribes, payable in the same manner and out of the same fund as the superintendent of schools.

35124. The superintendent of schools of a unified school district which is coterminous with the boundaries of a city and county shall have all the powers and duties set forth in this code for a superintendent of any school district of the class of school which is included within said unified school district; said superintendent shall have his compensation fixed and ordered paid by the board of education, anything in a city, county, or city and county charter to the contrary notwithstanding.

35125. The superintendent of schools of a unified school district which is coterminous with the boundaries of a city and county shall also perform the duties of the county superintendent and shall be entitled to have such associate superintendents and assistant superintendents of schools as appointed by the board of education, and when appointed, they shall be designated as associate superintendents and assistant superintendents.

### Article 3. Meetings

35140. Subject to the provisions of this article the governing board of any school district shall by rule and regulation fix the time and place for its regular meetings. Such action shall be proper notice to all members of the board of the regular meetings.

35141. The governing board of any union or joint union high school district, shall hold its regular meetings either monthly or quarterly. The governing board of any other high school district, shall hold its regular meetings monthly.

35142. Subject to the provisions of Section 35141, the times at which the regular meetings of the governing board of a high school district are to be held shall be prescribed by the rules and regulations adopted by such board for its own government.

35143. The governing board of each school district shall hold an annual organizational meeting. In a year in which a regular election for governing board members is conducted, the meeting shall be held on a day within a 15-day period that commences with the date upon which a governing board member elected at that election takes office. Organizational meetings in years in which no such regular election for governing board members is conducted shall be held during the same 15-day period on the calendar. Unless otherwise provided by rule of the governing board, the day and time of the annual meeting shall be selected by the board at its regular meeting held immediately prior to the first day of such 15-day period, and the board shall notify the county superintendent of schools of the day and time selected. The clerk of the board shall, within 15 days prior to the date of the annual meeting, notify in writing all members and members-elect of the date and time selected for the meeting.

If the board fails to select a day and time for the meeting, the county superintendent of schools having jurisdiction over the district shall, prior to the first day of such 15-day period and after the regular meeting of the board held immediately prior to the first day of such 15-day period, designate the day and time of the annual meeting. The day designated shall be within the 15-day period. He shall notify in writing all members and members-elect of the date and time.

At the annual meeting the governing board of each high school district, union high school district, and joint union high school district shall organize by electing a president from its members and a clerk.

At the annual meeting each city board of education shall organize by electing a president from its members.

At the annual meeting the governing board of each other type of school district, except a community college district, shall elect one of its members clerk of the district.

As an alternative to the procedures set forth in this section, a city board of education whose members are elected in accordance with a city charter for terms of office commencing in December, may hold its annual organizational meeting required in this section between December 15 and January 14, inclusive, as provided in rules and regulations which shall be adopted by such board. At the annual meeting the city board of education shall organize by electing a president and vice president from its members who shall serve in such office during the period January 15 next to the following January 14, unless removed from such office by majority vote of all members of the city board of education.

35144. A special meeting of the governing board of a school district may be called at any time by the presiding officer of the board, or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board,

and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the governing board. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the board a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

35145. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 35146 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public. Until the governing board adopts such minutes as the official minutes, such minutes shall be labeled the unadopted minutes. The official minutes shall also constitute public records and shall be available to the public.

(b) A list of items that will constitute the agenda for all regular meetings shall be posted at a place where parents and teachers may view the same at least 48 hours prior to the time of said regular meeting, and, in the case of special meetings, at least 24 hours prior to said special meeting.

35146. Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing body of a school district shall, unless a request by the parent has been made pursuant to this section, hold executive sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Section 48950 or Sections 48974 and 48975 of this code.

Before calling such executive session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such executive session. Unless the pupil, or his parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the

governing board in executive session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in executive session. Whether the matter is considered at an executive session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

35147. Each member of the governing board of a school district may be allowed for travel necessary to attend annual, regular monthly, and special meetings of the governing board the rate of mileage determined by the governing board. Mileage shall not be allowed to any member to attend any meeting except for travel required in excess of 10 miles. Orders for travel allowances shall be drawn upon the funds of the district and signed by a majority of the governing board exclusive of the payee.

35148. Meetings of the governing board of a high school district shall be held in the high school building. If there is no high school building in the high school district, or if in the judgment of the board, the interests of the district may be better served by holding its meetings elsewhere, it may meet at such other place in the high school district as it may by resolution determine.

35149. The first meeting of any newly elected or appointed school district governing board, and any annual meeting required by law to be held by such board for purposes of its organization, shall be deemed a regular meeting of the board for purposes of any requirement of law that periodic meetings shall be held by such board, and the regular business of the board may be transacted at such a meeting.

#### Article 4. Powers and Duties

35160. On and after January 1, 1976, the governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.

35161. The governing board of any school district may execute any powers delegated by law to it or to the district of which it is the governing board, and shall discharge any duty imposed by law upon it or upon the district of which it is the governing board.

35162. In the name by which the district is designated the governing board may sue and be sued, and hold and convey property for the use and benefit of the school district.

35163. Every official action taken by the governing board of every school district shall be affirmed by a formal vote of the members of the board, and the governing board of every school

district shall keep minutes of its meetings, and shall maintain a journal of its proceedings in which shall be recorded every official act taken.

35164. The governing board shall act by majority vote of all of the membership constituting the governing board.

35165. Notwithstanding any other provision of law, if a school district governing board consists of seven (7) members and not more than two vacancies occur on the governing board, the vacant position or positions shall not be counted for purposes of determining how many members of the board constitute a majority; and, whenever any of the provisions of this code require unanimous action of all or a specific number of the members elected or appointed to the governing board, the vacant position or positions shall be excluded from determination of the total membership constituting the governing board.

35166. The governing board of each unified school district shall have the same powers and duties as are by law granted to the governing boards of the elementary school districts, and high school districts.

35167. Except where otherwise provided, all of the provisions of this code applicable to the government, maintenance, support, functions, and administration of elementary, high school districts are applicable to the government, maintenance, support, and administration of unified school districts.

35168. The governing board of each school district, shall establish and maintain a historical inventory, or an audit trace inventory system, or any other inventory system authorized by the State Board of Education, which shall contain the description, name, identification numbers, and original cost of all items of equipment acquired by it whose current market value exceeds two hundred dollars (\$200) per item, the date of acquisition, the location of use, and the time and mode of disposal.

35169. The governing board of any school district having more than one school may appoint an advisory committee of not more than five members from each school to advise the governing board concerning the needs of that school. The members of such advisory committees shall serve at the pleasure of the governing board.

35170. The governing board of any school district may secure copyrights, in the name of the district, to all copyrightable works developed by the school district, and royalties or revenue from said copyrights are to be for the benefit of the school district securing said copyrights.

35171. The governing board of any school district shall adopt and cause to be printed and made available to each certificated employee of the district reasonable rules and regulations providing for the evaluation of the performance of certificated employees in their assigned duties.

35172. The governing board of any school district may:

- (a) Conduct studies through research and investigation as are

determined by it to be required in connection with the present and future management, conditions, needs, and financial support of the schools; or join with other school district governing boards in the conduct of such studies.

(b) Install and maintain exhibits of educational programs and activities of the school district at any county fair held in the county in which the district is located in whole or in part, or at any agricultural district fair held in the county in which the school district is located in whole or in part.

(c) Inform and make known to the citizens of the district, the educational programs and activities of the schools therein.

(d) Subscribe for membership for any school under its jurisdiction in any society, association, or organization which has for its purpose the promotion and advancement of public or private education.

(e) Subscribe for membership in, or otherwise become a member of, any national, state or local organization of governing boards of school districts or members thereof which has for its purposes the promotion and advancement of public education through research and investigation, and the cooperation with persons and associations whose interests and purposes are the betterment of the educational opportunities of the children of the state.

(f) Select a member or members of the board to attend meetings of any society, association, or organization for which the school district has subscribed for membership, or any convention to which it may pay the expenses of any employee.

35173. The actual expenses of the member or members selected to attend a meeting or convention pursuant to subdivision (f) of Section 35172 shall be allowed and paid out of the funds of the district, and the governing board of the district may authorize an advance of funds to cover such expenses, with the advance to be repaid or adjusted upon the filing of a regular claim for the actual expenses incurred. Except as otherwise provided in this section, the governing board of any school district may pay out of the same funds the actual and necessary expenses incurred in connection with activities pursuant to subdivisions (a), (b), and (d) of Section 35172.

If any studies are undertaken jointly by two or more school districts pursuant to subdivision (a) of Section 35172, the costs thereof shall be apportioned among the participating districts as determined by the agreement of the governing boards. Expenses, including transportation expenses, incurred in connection with installing, maintaining and returning exhibits provided pursuant to subdivision (b) of Section 35172 may be paid only out of funds of the district not required to be used for other purposes.

35174. The governing board of any school district or any member of the governing board of a school district may prepare or disseminate information or may make public or private appearances or statements for the purpose of urging the passage or defeat of any school measure of the district.

As used in the section, "school measure" includes any proposition

for the issuance of bonds of the school district, an increase in the maximum tax rate of the school district, the acceptance, expenditure, and repayment of state funds by the school district to enable the school district to construct buildings and other facilities, or the candidacy of any person for election to the governing board of the school district.

No school district funds, services, supplies, or equipment shall be used for the purpose of urging the passage or defeat of any school measure of the district, including, but not limited to, the candidacy of any person for election to the governing board of the district.

Nothing in this code shall be construed as prohibiting any administrative officer of a school district from appearing at any time before a citizens group, which requests his appearance, to discuss the reasons why the governing board of the school district called an election to submit to the voters of the district a proposition for the issuance of bonds or for an increase in the maximum tax rate of the district and to answer questions put to him by any taxpayer concerning the cost of such proposals.

35175. The powers and duties of boards of education in cities are as prescribed in the laws governing the respective cities, except as otherwise provided by this code.

35176. The governing body of any school district may by rule or regulation provide for the payment of the costs of replacing or repairing property of an employee, such as eyeglasses, hearing aids, dentures, watches, articles of clothing necessarily worn or carried by the employee, or vehicles when any such property is damaged in the line of duty without fault of the employee or if such property is stolen from the employee by robbery or theft while the employee is in the line of duty. If the property is damaged beyond repair or stolen, the actual value of such property may be paid. The value of such property shall be determined as of the time of the damage thereto or the robbery or theft. Limits may be established for the payment for such damaged or stolen property.

In the event the employee is paid the costs of replacing or repairing such property, or the actual value of such property, the school district shall, to the extent of such payments, be subrogated to any right of the employee to recover compensation for such damaged or stolen property. The school district may file and prosecute an action to enforce its subrogation right in the small claims court if the amount of the claim is within that court's monetary jurisdiction or may enforce its subrogation right in any other court of competent jurisdiction.

35177. The governing board of a district may by resolution limit campaign expenditures or contributions in elections to district offices.

### Article 5. Instructions From Electors

35190. The governing board of a school district, except a district having a city board of education, may, and upon a petition signed by a majority of the electors resident in the district shall, call meetings of the qualified electors of the district for consultation in regard to any affairs in the district. A meeting so called shall be competent to instruct the governing board, and the board shall, in all cases, be bound by such instructions upon the following subjects:

(a) The location or change of location of the schoolhouse, if the proposal to instruct the board in regard to changing the location of the schoolhouse is passed by a vote of two-thirds of all the electors voting at the meeting upon the proposition.

(b) The use of the schoolhouse for other than school purposes, but in no case shall the schoolhouse be used for purposes which necessitate the removal of any school desks or other school furniture.

(c) The sale and purchase of school sites.

(d) The prosecution, settlement, or compromise of any litigation in which the district is engaged, or is likely to become engaged.

The meeting may vote money not exceeding one hundred dollars (\$100) in any one year, for any of these purposes in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire, except that the proceeds of the insurance of the library and apparatus shall be paid into the library fund. All funds raised by the sale of school property may be disposed of by direction of a district meeting.

35191. The meeting provided for in Section 35190 shall be called by posting three notices in public places, one of which shall be in a conspicuous place on the schoolhouse, for not less than 10 days prior to the time for which the meeting is called. The notices shall specify the purposes for which the meeting is called, and no other business shall be transacted at the meeting.

35192. Any district meeting called pursuant to Sections 35190 and 35191 shall be organized by choosing a chairman from the electors present. The district clerk or secretary shall be clerk of the meeting, and shall enter the minutes on the records of the district. Any district meeting may be adjourned from time to time as found necessary. All votes instructing the board of trustees shall be taken by ballot, or by "ayes" and "noes" vote as the meeting may determine.

### Article 6. Liabilities

35200. The governing board of any school district is liable as such in the name of the district for all debts and contracts, including the salary due any teacher, not made in excess of the school moneys accruing to the district and usable for the purposes of the debts and contracts during the school year for which the debts and contracts are made. The district shall not be liable for debts and contracts made in violation of this section.

For the purposes of this section, moneys transferred to the funds of a newly organized school district pursuant to Section 42623 are deemed school moneys accruing to the district and usable for the purposes of contracts made for the school year preceding the date the district became effective for all purposes.

35201. The governing board of any school district shall pay any judgment for debts, liabilities, or damages out of the school funds to the credit of the district, subject to the limitation on the use of the funds provided in the Constitution. If any judgment is not paid during the tax year in which it was recovered:

(a) And if, in the opinion of the board, the amount is not too great to be paid out of taxes for the ensuing year, the board shall include in its budget for the ensuing tax year a provision to pay the judgment, and shall pay it immediately upon the obtaining of sufficient funds for that purpose.

(b) And if, in the opinion of the board, the amount of the judgment is so great that undue hardship will arise if the entire amount is paid out of taxes for the next ensuing tax year, the board shall provide for the payment of the judgment in not exceeding 10 annual installments with interest thereon up to the date of each payment, and shall include provision for the payment in each budget for not exceeding 10 consecutive tax years next ensuing. Each payment shall be of an equal portion of the principal of the judgment, except that the board, in its discretion, may provide for the prepayment of any one or more installments or any part of an installment.

35202. All claims for money or damages against a school district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

35203. Upon request of the governing board of the school district, the district attorney of the county in which a school district is located shall, without fee or other charge, defend:

(a) The district in any suit brought against the district pursuant to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(b) Any member of the governing board of the school district, or any employee or servant of the school district, as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of the Government Code.

35204. The governing board of any school district, may contract for the services of an attorney in private practice or utilize an administrative adviser to prepare and conduct school district litigation, or to assist it in the preparation and conduct of school district litigation, and compensation of such attorney pursuant to contract shall be a proper use of school district funds but the school district shall first obtain the written views of the district attorney or county counsel as to the merits of the litigation and the form of the

proposed contract of employment with the private attorney. The district attorney or the county counsel shall furnish his written views within seven days from the time he is requested by the governing board of the school district.

35205. The governing board of any school district, may, with the concurrence in writing of the district attorney or county counsel having jurisdiction thereof, contract with a qualified attorney in private practice to provide specialized legal services. Compensation of such attorney in private practice pursuant to contract under this section shall be a proper use of school district funds, but the school district shall first obtain the written views of the district attorney or county counsel, which shall be furnished within seven days from the time of the request by the governing board, as to the need for specialized legal services and on the form of the proposed contract with the private attorney.

35206. Notwithstanding any provisions of law to the contrary, as an alternative to contracting with private counsel or for the use of an administrative adviser, the governing board of any school district, may elect to supplement the legal services that customarily are being rendered by the office of county counsel or district attorney by contracting with either the office of county counsel or office of district attorney, or both, for additional services. Such additional services shall be performed at a fee and in a manner agreed upon by the governing board and the office of county counsel or office of district attorney, or both.

35207. The governing board of any school district, may contract for the services of a hearing officer pursuant to the provisions of Chapter 14 (commencing with Section 27720), Part 3, Division 2, Title 3 of the Government Code and, for purposes of that chapter, the governing board is deemed to be a local body and the school district a local public entity.

35208. (a) The governing board of any school district shall insure against:

(1) The liability, other than a liability which may be insured against under the provisions of Division 4 (commencing with Section 3200) of the Labor Code, of the district for damages for death, injury to person, or damage or loss of property; and

(2) The personal liability of the members of the board and of the officers and employees of the district for damages for death, injury to a person, or damage or loss of property caused by the negligent act or omission of the member, officer or employee when acting within the scope of his office or employment.

(b) The insurance may be written in any insurance company authorized to transact the business of insurance in the state, or in a nonadmitted insurer to the extent and subject to the conditions prescribed by Section 1763 of the Insurance Code.

(c) Nothing in this section is intended to limit or restrict the authority of the district to insure under Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.

35209. Nothing in this code shall be construed as prohibiting the governing board of any school district from insuring, pursuant to Section 35208, against the liability of the district for damages for death, injury to person, or damage or loss of property arising out of any aviation education conducted pursuant to Article 8 (commencing with Section 51790) of Chapter 5 of Part 28 of Division 4 of this title or against the personal liability of the members of the board and of the officers and employees of the district for damages for death, injury to a person, or damage or loss of property caused by the negligent act or omission of the member, officer, or employee when acting within the scope of his office or employment in conducting any aviation education pursuant to Article 8 (commencing with Section 51790) of Chapter 5 of Part 28 of Division 4 of this title.

35210. The governing board of a school district maintaining a high school or high schools, a county superintendent of schools, the California Youth Authority, and the State Department of Education who maintain courses in driver education and automobile driver training may insure against any liability arising out of the use of motor vehicles in connection with such courses.

35211. The governing board of any school district maintaining a course of automobile driver training shall advise the parents or guardians or persons having custody of pupils of the district participating in automobile driver training courses under the jurisdiction of, or sponsored or controlled by, the district, who have signed the statement required by Section 12650 of the Vehicle Code or an application for a driver's license under Section 17701 of the Vehicle Code, of each of the following:

(a) Any civil liability of the minor which will be imposed on the parent, guardian, or other person by reason of such minor operating a motor vehicle.

(b) The insurance coverage carried by the school district, with respect to the use of motor vehicles in connection with such courses, specifically including any limitations of such coverage which limit such coverage to an amount less than the liability imposed on the parent, guardian, or other person, or which limit the nature of such coverage to exclude any activity or situation included within the liability so imposed.

35212. Notwithstanding Section 35208, the governing board of any school district or the county board of education may provide for persons authorized by the governing board or the county superintendent of schools to perform volunteer services for the district or the county superintendent of schools insurance coverage which is the same as or comparable to that provided for employees of the district or the county superintendent of schools, including coverage under the provisions of Division 4 (commencing with Section 3201) of the Labor Code.

35213. The governing body of a school district may provide by rule or regulation for the reimbursement of any person or persons

for the loss, destruction, or damage by arson, burglary or vandalism of personal property used in the schools of the district. Reimbursement shall be made only when approval for the use of the personal property in the schools was given before the property was brought to school and when the value of the property was agreed upon by the person or persons bringing the property and the school administrator or person appointed by him for this purpose at the time the approval for its use was given. The governing body may establish a maximum value of reimbursement which will be paid.

35214. The board of governors of a school district with 50,000 or more average daily attendance may provide protection from its own funds for the purpose of covering the liability of the district, its officers, agents, and employees, in lieu of carrying insurance in insurance companies as provided in Section 35208. Nothing contained herein shall be construed as prohibiting the board of education of the district from providing protection against such liability partly by means of its own funds and partly by means of insurance written by insurance companies as provided in Section 35208.

#### Article 7. Corrupt Practices

35230. The offering of any valuable thing to any member of the governing board of any school district, with the intent to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, superintendent, or other officer or employee, the adoption of any textbook, or the making of any contract to which the board of which he is a member is a party, or the acceptance by any member of the governing board of any valuable thing, with corrupt intent, is a misdemeanor.

35231. Any contract or appointment obtained from the governing board of any school district by corrupt means is void.

35232. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who is charged with any offense described in Sections 35230 or 35231.

35233. No member of the governing board of any school district shall be interested in any contract made by the board of which he is a member.

35234. Except as provided in Section 35235, no contract or other transaction entered into by the governing board of any school district is either void or voidable under the provisions of Section 35233, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

(a) The fact of such interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such interested member or members, and

(b) The contract or transaction is just and reasonable as to the school district at the time it is authorized or approved.

35235. The provisions of Section 35234 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

(a) The contract or transaction is between the school district and a member of the governing board of that district.

(b) The contract or transaction is between the school district and a partnership or unincorporated association of which any member of the governing board of that district is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest.

(c) The contract or transaction is between the school district and a corporation in which any member of the governing board of that district is the owner or holder, directly or indirectly, of five percent (5%) or more of the outstanding common stock.

(d) A board member is interested in a contract or transaction within the meaning of Section 35233 and, without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

35236. No contract entered into by the governing board of any school district is either void or voidable under the provisions of Sections 35233 and 35235, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under such provisions, if the contract is a contract of employment of any spouse or child of any member of the governing board, and such employment is as a limited-term employee under Section 45286 or a short-term employee under Section 45103, whichever is applicable, and is made on a competitive basis between persons who are eligible, under written qualifications, and competent to fulfill the duties and responsibilities of such employment.

35237. The question of the validity or invalidity of a contract or other transaction entered into by the governing board of any school district where a member of the governing board of that district is interested in such contract or transaction, as well as the question of disqualification or misconduct in office of such interested member, shall be exclusively governed by the provisions of the Education Code which are hereby declared to and shall supersede (1) any and all provisions of law contained in any code or law of this state, except those which specifically refer to members of the governing board of school districts and which might otherwise be applicable and (2) any and all provisions of law contained in any charter or ordinance of a city, county or city and county, which might otherwise be applicable.

35238. A board member shall not be deemed to be interested in a contract within the meaning of Section 35233 of this code solely by reason of his membership in a nonprofit corporation formed under the Agricultural Code, or in a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products providing that the fact of such membership is disclosed or known to the governing board and

noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract in good faith by a vote sufficient for the purpose without counting the vote of such member.

35239. In a school district which during the preceding fiscal year had an average daily attendance of 70 or less, a member of the governing board may receive a reasonable compensation from the district for necessary work and labor performed by him for the district in repairing the schoolhouse, fences, and other property belonging to the district, or in furnishing wood or other necessary supplies. In all such cases the requisition drawn in his favor in payment of services or supplies shall be signed by the other members of the governing board and shall be subject to approval by the county superintendent of schools.

35240. Any contract made in violation of Section 35233 or 35239 is void.

#### Article 8. Records and Reports

35250. The governing board of every school district shall:

(a) Certify or attest to actions taken by the governing board whenever such certification or attestation is required for any purpose.

(b) Keep an accurate account of the receipts and expenditures of school moneys.

(c) Make an annual report, on or before the first day of July, to the county superintendent of schools in the manner and form and on the blanks prescribed by the Superintendent of Public Instruction.

(d) Make or maintain such other records or reports as are required by law.

35251. Whenever in any school year the school register of any teacher, or other records of any school district are destroyed by conflagration or public calamity, preventing the teacher and school officers from making their annual reports in the usual manner and with accuracy, affidavits of the teacher, the school principals, or other officers of the school district, certifying as to the contents of the destroyed register or other records, shall be accepted by all school authorities for all school purposes appertaining to the school district, except that of average daily attendance.

35252. Whenever the average daily attendance of any school district has been materially affected in any school year by conflagration, public calamity, or epidemic of unusual duration and prevalence, the regular annual reports of the teacher, the school principal, or officers of the school district, shall be accepted by all school officers for all school matters appertaining to the school district, except that of average daily attendance.

35253. Whenever the destruction of records of a district is not otherwise authorized or provided for by law, the governing board of the district may destroy such records of the district in accordance with regulations of the Superintendent of Public Instruction which

he is herewith authorized to adopt.

35254. The governing board of any school district may make microfilm or photographic copies of any records of the district. The original of any records of which a photographic or microfilm copy has been made may be destroyed when provision is made for permanently maintaining such photographic or microfilm copies in the files of the district, except that no original record that is basic to any required audit shall be destroyed prior to the second July 1st succeeding the completion of the audit.

35255. In any joint school district, all returns, reports, certificates, estimates, petitions, and other papers of any kind relating to schools and school districts, required by law to be filed with or presented to the board of supervisors or county superintendent of schools, shall be filed with or presented to the supervisors or superintendent of schools of each county in which any portion of the district is situated.

#### Article 9. Property

35270. The governing board of any school district may select and acquire sites within the boundaries of the district, and may acquire or construct thereon school facilities, as provided by law.

35270.5. The governing board of any school district may acquire by eminent domain any property necessary to carry out any of the powers or functions of the district.

35271. The governing board of any school district may acquire property, construct buildings, and maintain classes outside its boundaries on sites immediately adjacent to school sites of the district within its boundaries.

35272. The governing board of any school district may acquire and pay for educational and athletic equipment, supplies and materials, and other personal property necessary to its operation of the schools, as provided by law.

35273. The governing board of any school district may accept on behalf of, and in the name of, the district, such gifts, donations, bequests, and devises as are made to the district or to or for the benefit of any school or college administered by the district. Such gifts, donations, bequests and devises may be made subject to such conditions or restrictions as the governing board may prescribe.

35274. Where a gift of land has been accepted by the governing board of a school district upon condition or agreement that the same be devoted to school purposes of the district, whether such condition or agreement is written or oral and whether the terms thereof are recited or referred to in any instrument executed in connection with the conveyance of the gift, and the board subsequently determines that the land cannot feasibly be utilized for any school purpose of the district, the board may cause the same to be reconveyed to the donor without consideration to the district; provided, that failure to do so shall not affect the rights of any bona fide purchaser or encumbrancer of such land.

35275. The governing board of any school district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities in the community. Any school district planning, designing, or constructing new school facilities and school sites or major additions to existing school facilities shall file, at least annually, a report with the Department of Education setting forth its plans to achieve (a) a greater use of any joint or contiguous recreation and park facilities by the schoolchildren and (b) possible use by the total community of such school facilities and school sites and recreation and park facilities.

35276. Notwithstanding any other provision of law, in the event there are two or more identical lowest or highest bids, as the case may be, submitted to a school district for the purchase, sale, or lease of real property, supplies, materials, equipment, services, bonds, or the awarding of any contract, pursuant to a provision requiring competitive bidding, the governing board of any school district may determine by lot which bid shall be accepted.

#### Article 10. School Maintenance

35290. The governing board of any school district shall maintain schools and classes as provided by law.

35291. The governing board of any school district shall prescribe rules not inconsistent with law or with the rules prescribed by the State Board of Education, for the government and discipline of the schools under its jurisdiction.

35292. The governing board of any school district shall visit each school in its district at least once each term, and examine carefully into the management, needs, and conditions of the schools. In any school district which employs district or city superintendents of schools, it shall either visit the schools or provide that they shall be visited by the district or city superintendent of schools or his assistants.

35293. The governing board of any school district shall maintain all of the elementary day schools established by it, and all of the day high schools established by it with equal rights and privileges as far as possible.

#### Article 11. Counseling Services

35300. The governing board of any school district may provide in each school within the district an organized and functioning counseling program. Counseling shall include, but not be limited to, the following:

(a) Educational counseling, in which the pupil is assisted in planning and implementing his immediate and long-range educational program.

(b) Career counseling, in which the pupil is assisted in assessing his aptitudes, abilities, and interests in order to make realistic career decisions.

(c) Personal counseling, in which the pupil is helped to develop his ability to function with social and personal responsibility.

(d) Evaluating and interpreting test data.

(e) Counseling and consultation with parents and staff members on learning problems and guidance programs for pupils.

For the purposes of this section, a person performing counseling services to pupils shall be a school counselor possessing a valid credential with a specialization in pupil personnel services and assigned specific times to directly counsel pupils regarding their educational, vocational, and social adjustment.

A governing board of a school district which offers such counseling services, may contract with the governing boards of any other school districts, or private schools, or other public and private agencies or organizations, to render such counseling services. In so contracting, the governing board of a school district shall not contract at less than cost to a private school, or private agency or organization.

Nothing in this section shall be construed as prohibiting persons participating in an organized advisory program approved by the governing board of a school district, and supervised by a school district counselor, from advising pupils pursuant to the organized advisory program.

Notwithstanding any provisions of this section to the contrary, any person who is performing such counseling services pursuant to law authorizing the performance thereof in effect before the effective date of this section shall be authorized to continue to perform such services on and after the effective date of this section without compliance with the additional requirements imposed by this section.

## Article 12. Scholarship and Loan Funds

35310. The governing board of any school district may establish and maintain a scholarship and loan fund, to be administered by a committee composed of the members of the governing board of the school district, the school district superintendent, and such other community, faculty, administrative, and student representatives as the governing board shall determine.

The governing board shall, by rules and regulations, determine the terms of office and the method of selection of such community, faculty, administrative, and student representatives.

35311. The superintendent of school district shall be the chairman of the committee and shall be the chief executive officer of the fund.

35312. The committee shall meet at least once each fiscal year and at such other times as it may be called into session by the chairman.

35313. The committee may accept on behalf of, and in the name of, the fund, such gifts, donations, bequests, and devises as are made for the purposes of the fund. Such gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the committee may prescribe.

Any donor to the fund may impose conditions to his gift, donation, bequest, or devise. The committee shall review all such conditions and make a recommendation to the governing board as to the compatibility of such conditions with the intent and purpose of the fund. The governing board shall have the authority to prohibit the committee from accepting any proposed donation to the fund if conditions with respect to the gift, donation, bequest, or devise are incompatible with the intent and purpose of the fund, as determined by the governing board.

Except as provided in this section, in no event shall the approval of any state agency be a prerequisite to acceptance by the committee of any gift, donation, bequest, or devise.

35314. Money in the fund shall be deposited in a bank or other institution whose accounts are insured by the Federal Deposit Insurance Corporation, and any money so deposited shall be in an account or accounts fully covered by such insurance.

The committee shall establish and maintain procedures to identify clearly all money in the fund and its separate and distinct impressed trusts, if any, and from whom and to whom such money was received and disbursed.

35315. All money in the fund shall be available for making interest-free loans for educational advancement, for scholarship, or for grants-in-aid to eligible persons. An eligible person for such loans shall be any of the following:

(a) A bona fide organization of a school under the jurisdiction of the governing board of the school district.

(b) An enrollee at a school under the jurisdiction of the governing board of the school district.

(c) A graduate of a school under the jurisdiction of the governing board of the school district.

35316. An applicant for a loan from the fund shall make application therefor in accordance with reasonable rules and regulations established by the governing board of the school district, provided that such rules and regulations shall not include any conditions limiting eligibility on account of race, creed, or country of origin.

35317. All expenses in the administration of the fund including, but not limited to, operating costs, audits, promotion of the fund, and physical housing for the committee, shall be a proper charge against the funds of the school district and the annual budget of the school districts shall include funds for such expenses.

35318. The governing board of the school district shall arrange for an annual audit of the fund in the same manner as prescribed in Section 41020.

35319. The chief executive officer of the fund shall make periodic reports, but not less frequently than annually, to the governing board of the school district with respect to the status and activity of the fund.

### Article 13. Excursions and Field Trips

35330. The governing board of any school district or the county superintendent of schools of any county may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for pupils enrolled in elementary or secondary schools. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for such pupils.

(b) Engage such instructors, supervisors, and other personnel as desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for such field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of pupils, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where such excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, such liability insurance shall be secured from a carrier licensed to transact insurance business in such foreign country.

(d) Provide supervision of pupils involved in field trips or excursions by certificated employees of the district.

No pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for pupils in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any pupil who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of pupils participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds. Expenses of instructors, chaperones, and other personnel participating in a field trip or excursion authorized by this section may be paid from school district funds, and the school district may pay from school district funds all incidental expenses for the use of

school district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a pupil in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance which would have accrued had the students not been engaged in the field trip or excursion, but shall not exceed 10 schooldays. The Superintendent of Public Instruction shall advise the Legislature of the total amount of attendance credits which resulted from all field trips or excursions during the 1972-1973 fiscal year and the 1973-1974 fiscal year.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of pupils taking out-of-state field trips or excursions shall sign a statement waiving such claims.

No transportation allowances shall be made by the Superintendent of Public Instruction for expenses incurred with respect to field trips or excursions which have an out-of-state destination. Any school district which transports pupils, teachers or other employees of the district in schoolbuses within the state and to destinations within the state, pursuant to the provisions of this section, shall report to the Superintendent of Public Instruction on forms prescribed by him the total mileage of schoolbuses used in connection with such educational excursions. In computing the allowance to such school district for regular transportation there shall be deducted therefrom an amount equal to the depreciation of schoolbuses used for such transportation in accordance with rules and regulations adopted by the Superintendent of Public Instruction.

35331. The governing board of any school district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for pupils of the district injured while participating in such excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any school of the district. The cost of the insurance or membership may be paid, from the funds of the district, or by the insured pupil, his parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only such companies or corporations as are authorized to do business in this state.

35332. No air transportation may be provided under this article unless the air transportation is provided by chartered aircraft operated exclusively by an air carrier or foreign air carrier as defined

in subdivisions (3) and (19) of Section 101 of Title 1 of the "Federal Aviation Act of 1958" (Public Law 85-726; 72 Stat. 731) engaged in air transportation as defined in subdivision (10) of the same section while there is in force a certificate or permit issued by the Civil Aeronautics Board of the United States, or its successor, authorizing such air carrier to engage in such transportation.

#### Article 14. Costs of Accreditation

35340. The governing board of a district maintaining a high school may pay the costs of accreditation of the school by any accrediting association.

(a) The accrediting association shall have each year, as one member of each of its accrediting commissions for public schools, a representative of the Department of Education, who shall be appointed by the Superintendent of Public Instruction.

(b) Each visiting team assigned by the accrediting association to examine a school may have as a member, except in cases of unavoidable absence due to illness or other emergency, a representative of the Department of Education, who shall be appointed by the Superintendent of Public Instruction.

#### Article 15. Authority to Transport Pupils

35350. No governing board of a school district shall require any student or pupil to be transported for any purpose or for any reason without the written permission of the parent or guardian.

This section shall not apply to the transportation of a student or pupil in an emergency arising from illness or injury to the student or pupil.

35351. No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school.

### CHAPTER 3. FORMATION OF DISTRICTS

#### Article 1. General Provisions

35500. The State Board of Education shall establish minimum standards for the formation of districts which it shall apply in approving or disapproving petitions for the formation of new districts.

35501. When a petition for a new district is to be heard by the State Board of Education pursuant to this chapter the Superintendent of Public Instruction may, if he deems it advisable, make a survey of the districts or territory proposed to be included in the new district and of the districts contiguous thereto. He shall report the findings of the survey to the State Board of Education together with his recommendations concerning the petition. The cost of the survey shall be borne by the districts proposed to be

included in the new district, and it shall be divided among them in proportion to the assessed valuation of territory of each district proposed to be included in the new district.

35502. Every city organized before September 11, 1957, except a general law city, constitutes a separate school district unless otherwise prescribed in its original city charter. The district shall be governed by the board of education or board of school trustees of the city. Every chartered city organized on and after September 11, 1957, unless otherwise provided in its original charter, constitutes a separate school district if approved by the State Board of Education. The approval shall be by resolution. The State Board of Education shall approve such district only if it has received the favorable recommendation of the county committee and the county superintendent of schools of the county in which the city is situated. Sections 35673 to 35675, inclusive, shall apply to any annexation of territory to a city constituting a separate school district under this section. If the consent of the governing board of the district is first obtained, territory within the exterior boundaries of a city may be withdrawn from the school district of that city and annexed or transferred to an adjoining school district in the manner provided elsewhere in this code for the change of school district boundaries.

35503. Whenever the boundaries of an elementary school district and a high school district become coterminous, the districts shall be merged into a new unified district.

## Article 2. New Districts

35510. A new elementary or high school district may be formed pursuant to this article to include all or part of the territory of one or more existing districts of the same kind as the new district or to include territory which is a part of a district not of the same kind as the new district, or both. If a new district is to be formed only from all of the territory of two or more districts of the same kind as the new district, the district shall be formed pursuant to Article 3 (commencing with Section 35530) of this chapter and not pursuant to this article.

35511. An action to form a new elementary district is initiated upon the filing with the county superintendent of schools of a petition for the new district. The petition shall be signed by at least 25 percent of the registered electors residing in the territory proposed to be included in the new district.

An action to form a new high school district is initiated upon the filing with the county superintendent of schools of a petition for the new district signed by either of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be included in the new district.

(b) A majority of the members of the governing board of each district which would be components of the proposed new district.

35512. The county superintendent of schools shall, within 20 days

after the petition for a new district is filed, examine the petition, and, if he finds it to be sufficient and signed as required by law, transmit the petition to the office of the secretary of the State Board of Education.

35513. When a petition for a new district is received in the office of the secretary of the State Board of Education the secretary shall set the petition for hearing at a regular or special meeting of the board. At least 30 days prior to the date of the hearing he shall send by registered mail a notice containing a general statement of the purpose of the petition and the time and place of the hearing to each of the following persons or agencies:

(a) The governing board and district superintendent of each school district whose boundaries would be affected.

(b) The county superintendent and county committee of each county which has jurisdiction over any of the districts whose boundaries would be affected.

(c) The persons designated in the petition as "chief petitioners."

35514. After hearing those who present themselves to speak on the petition and after hearing any findings and recommendations of the State Superintendent of Public Instruction, the State Board of Education shall approve or disapprove the formation of the proposed new district. If the board approves the formation, it shall determine whether the election shall be held only in the territory or district proposed to be included in the new district or whether the election shall be held in the district or in each of the districts from which territory would be removed to form the new districts.

35515. If the State Board of Education approves the formation of the proposed new district, the secretary of the board shall immediately notify the county superintendent of schools. Within 20 days after receiving the notification, he shall call an election, in the manner prescribed in Division 4 of this code, in the territory or districts as determined by the State Board of Education. The ballot used in the election shall contain the words "For the formation of the new \_\_\_\_\_ District with a revenue limit per unit of average daily attendance of \_\_\_\_\_, such limit to be in effect for the school year commencing \_\_\_\_\_" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

35516. The county superintendent of schools shall prepare a statement of official information and statistics relating to the proposed new school district which shall include, but is not limited to, the assessed valuation, the tax rate, the rate of growth, the expected enrollment, and the support from the state which can be expected if such new district maintains an adequate school program. Such statistics shall be based upon the school year last completed before the date of the election. Upon approval by the Department of Education, the statement of official information shall be distributed to each registered elector in the territory in which the election will be held.

35517. The county superintendent of schools shall compute a

revenue limit for the proposed new school district which in his judgment will be adequate to meet the needs of the district. Such revenue limit shall appear on the ballot as prescribed by Section 35515.

35518. The statement of official information and statistics prepared and distributed pursuant to Section 35516 in connection with the proposed new school district shall contain a statement by the county superintendent of schools, of the amount by which the revenue limit, as computed by him pursuant to Section 35517, of the new district, would be required to be increased in order to produce an amount of revenue equal to the sum of the revenues of each of the districts proposed to be partially or wholly included therein produced by all of the taxes levied, pursuant to statutes authorizing taxes to be levied for particular purposes without compliance with Section 42202, in such districts during the school year prior to the fiscal year in which the election for reorganization was held.

35519. The county superintendent of schools calling the election shall cause to be prepared and distributed a statement setting forth arguments for and against the measure. The arguments shall not exceed 500 words. The argument in favor of the measure shall be prepared by an elector who signed the petition submitted pursuant to subdivision (a) of Section 35511 or by a member of the majority of a governing board pursuant to subdivision (b) of Section 35511. The argument against the measure shall be prepared by an opponent of the measure designated by the county superintendent of schools.

35520. The cost of preparation and distribution of the statement setting forth the arguments in favor of, and those opposed to, the measure and the cost of any election held hereunder shall be a charge against the general fund of the county in which the proposed new school district is situated. If such district is situated in more than one county, the cost shall be prorated against each county in the same proportion as the assessed valuation of the district lying in such county bears to the total assessed valuation of the district.

When the election is held in more than one county because the proposed new school district is to be situated in more than one county, the cost of the election shall be prorated against each county in the same proportion as the assessed valuation of the territory of the proposed new district lying in such county bears to the total assessed valuation of the proposed new district.

### Article 3. Combining Districts

35530. A new elementary, high school, or unified district may be formed pursuant to this article by combining two or more existing districts of the same kind.

35531. An action to form a new district by combining existing districts of the same kind is initiated upon the filing with the county superintendent of schools of a petition for the new district. The petition shall be signed by either of the following:

(a) At least 25 percent of the registered electors residing in each of the districts proposed to be combined.

(b) The governing boards of each of the districts.

35532. The county superintendent of schools shall, within 20 days after the petition to form a new district is filed, examine the petition and, if he finds it to be sufficient and signed as required by law, order an election in each of the petitioning districts. The ballot shall contain the words "For the formation of the new \_\_\_\_\_ district" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice. If a majority of the votes cast in each of the districts is in favor of the new district, it shall be formed.

#### Article 4. Consolidation

35540. A majority of the registered voters residing in each of two or more elementary, union elementary, or joint union elementary school districts which are part of one or more high school districts, may present to the county superintendent of schools who has jurisdiction over the elementary school districts or a majority thereof, a petition asking for the organization of a consolidated high school district to include all of the territory of the elementary school districts represented in the petition if all of the following conditions exist:

(a) The assessed valuation of the elementary districts totals twenty-five million dollars (\$25,000,000) or more.

(b) The average daily attendance of all of the elementary districts, as determined for the preceding fiscal year, totals five hundred (500) or more.

(c) The area of all of the elementary districts totals two hundred (200) square miles or more.

(d) The high school districts from which territory is withdrawn to form a consolidated high school district shall be left with not less than twenty-five million dollars (\$25,000,000) in assessed valuation.

(e) The high school districts from which territory is withdrawn to form a consolidated high school district shall be left with an average daily attendance in grades 9 through 12 of not less than 500.

The county superintendent shall, within 20 days after receiving the petition, examine the petition and, if he finds it to be sufficient and signed as required by law, submit the petition to the county committee for approval.

35541. Upon the receipt of the petition, the county committee shall consider it and final action taken on the petition to form a consolidated high school district shall be taken only in accordance with the procedures set forth under the provisions of Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1 embodying approval by the State Board of Education and by the electorate of the proposed consolidated high school district subject to the following exceptions:

(a) The county committee shall provide in its plan submitted to

the State Board of Education for trustee areas, not to exceed seven, with each trustee area comprising at least one of the component elementary districts.

(b) The ballots used in the election shall contain the words "new consolidated high school district—yes, and new consolidated high school district—no."

(c) Candidates for the position of member of the governing board of the consolidated high school district shall be members of the governing boards of the respective component elementary school districts.

35542. Any existing high school district may, irrespective of the conditions prescribed by subdivisions (a) through (e), inclusive, of Section 35540 which shall not apply for purposes of this section, be reorganized as a consolidated high school district pursuant to the procedures prescribed by Section 35540, or may be so reorganized upon presentation to the county superintendent of schools having jurisdiction over the high school district of a petition requesting such reorganization which has been affirmatively acted upon by all of the governing boards of the elementary school districts comprising the existing high school district at regular or special meetings of the boards.

35543. Any consolidated high school district may be dissolved pursuant to the provisions of Sections 35540 and 35541, or may be so dissolved when there is presented to the county superintendent of schools having jurisdiction of the district a petition requesting such dissolution which has been affirmatively acted upon by all of the governing boards of the elementary school districts comprising the consolidated high school district.

35544. The first governing board of the consolidated high school district shall be elected at an election held separately but simultaneously with the election to form the consolidated high school district.

35545. Any consolidated high school district formed under this article shall be lapsed in the manner provided in Article 8 (commencing with Section 35720) of Chapter 3 of this part, upon failure, within two years after the making of the order specified in Section 4025, to issue bonds in an amount which will produce proceeds sufficient to enable the acquisition of one or more sites and the acquisition or construction of one or more high schools. The procedures necessary to obtain authorization to issue bonds may be consolidated with the procedures for formation of the consolidated high school district.

#### Article 5. Transfer—Component Districts

35550. An elementary district may be transferred from one high school district to another pursuant to this article.

35551. An action to transfer a component district from one high school district to another district of the same kind is initiated upon

the filing with the county superintendent of schools of a petition for transfer and an agreement to the transfer.

35552. The petition shall be signed by 25 percent of the registered electors residing in the component district or by the governing board of the high school district of which the component district is a part.

35553. The agreement to the transfer shall be signed by a majority of the members of the governing board of the high school district to which it is proposed to transfer the component district.

35554. The county superintendent of schools shall, within 20 days after the filing of the petition for transfer, examine the petition and if he finds it to be sufficient and signed as required by law, transmit the petition to the office of the secretary of the State Board of Education.

35555. When a petition for transfer of a component district is received in the office of the secretary of the State Board of Education the secretary shall set the petition for hearing at a regular or special meeting of the board. At least 30 days prior to the date of the hearing, he shall send by registered mail a notice containing a general statement of the purpose of the petition and the time and place of the hearing to each of the following persons or agencies:

(a) The governing board and district superintendent of each school district whose boundaries would be affected by the proposed transfer.

(b) The county superintendent and county committee of each county which has jurisdiction over any of the districts whose boundaries would be affected.

(c) The persons designated in the petition as "chief petitioners."

35556. After hearing those who present themselves to speak on the petition, the State Board of Education shall approve or disapprove the proposed transfer of the component district. If the board approves the transfer, it shall determine whether the election shall be held only in the component district proposed to be transferred or whether the election shall be held in the whole of the high school district from which the component district would be removed.

35557. If the State Board of Education approves the proposed transfer of the component district, the secretary of the board shall immediately notify the county superintendent of schools. Within 20 days after receiving the notification, he shall order an election in the district as determined by the State Board of Education. The ballot used in the election shall contain the words "For the transfer of \_\_\_\_\_ District from the \_\_\_\_\_ (high school) District to the \_\_\_\_\_ (high school) District" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

35558. Whenever parts of an elementary district are included in more than one high school district any part or parts of the component districts may be transferred to the high school district which includes another part of the same component district pursuant to this article.

35559. An action to transfer a part of a component district from

one high school district to another pursuant to this article is initiated upon the filing with the county superintendent of schools of a petition and agreement for transfer.

35560. The petition shall be signed by 25 percent of the registered electors residing in the part of the district proposed to be transferred or by a majority of the members of the governing board of the high school district from which the territory would be taken.

35561. The agreement to the transfer shall be signed by a majority of the members of the governing board of the high school district to which it is proposed to transfer the territory.

35562. The petition shall be acted upon in the same manner as is a petition for transfer of territory pursuant to Sections 35698 to 35704, inclusive.

35563. If the petition is a petition to transfer part of an elementary district to a high school district and is signed by a majority of the electors of the territory to be included in a high school district, no agreement to the transfer as prescribed in Section 35561 is required.

35564. All or part of the territory of a union elementary school district which is not wholly included in a high school district may be included in a contiguous high school district upon petition of the governing board of the union elementary district to the board of supervisors of the county in which all the high school district is wholly situated, or, if the high school district is a joint district, to the board of supervisors of the county whose county superintendent of schools has jurisdiction over the joint high school district.

The board of supervisors shall make an order to include the territory of the union elementary district in such high school district. Upon the making of the order, the change of boundaries of the high school district to include such territory shall be deemed to be completed and effective in accordance with Sections 4062 and 4064.

A copy of the order of the board of supervisors, certified by the clerk of the board, shall be recorded in the office of the county recorder of each county in which the district whose boundaries are changed is situated.

After the expiration of one year from the date of the recording of the order, the order shall be conclusive evidence that the boundaries have legally been changed and no suit shall be maintained which questions the validity of the change of boundaries.

#### Article 6. Transfer of Territory—General Provisions

35670. Whenever a district acquired or leases for a year or more a school site which is contiguous to its boundaries but which is not included in the boundaries of a chartered city, the site is transferred to the district which acquired or leased it. The county superintendent shall certify to the county board of supervisors that the property has been acquired or leased and the board shall issue the boundary change orders as provided in Section 4025.

35671. When a territory is acquired or leased by a high school district and is transferred thereto pursuant to Section 35670 the territory is transferred also to a component district of the high school.

35672. No proceedings affecting school district boundaries shall operate to exclude a school site from the school district owning the same if after such proceedings are complete the school site remains contiguous to the boundaries of the district. The school site remains contiguous for the purpose of this section although separated from the boundaries of the district by a road, street, stream, or other natural or artificial barrier or right-of-way. Notwithstanding such proceedings the site shall continue to be a part of the district owning or occupying the same, and the buildings and improvements thereon shall remain the property of such district, except that, a plan for the formation of a new district from territory included in a union high school district, prepared by an augmented committee formed under Section 4209, may specify whether the original or a new district shall have possession of the property.

35673. Territory annexed to a city which is not contiguous to a school district within the city shall not automatically become a part of any school district within such city pursuant to Section 35502.

35674. When territory is annexed to a city pursuant to the Annexation Act of 1913 (commencing with Government Code Section 35100) or the Annexation of Uninhabited Territory Act of 1939 (commencing with Government Code Section 35300), the territory does not thereby become a part of the school district of the city pursuant to Section 35502 unless the resolution required by Government Code Section 35117 or Section 35306, as the case may be, contains a statement that the annexed territory shall become a part of the school district of the city. A statement to transfer the annexed territory to the city school district shall not be included in such a resolution unless the territory is contiguous to the school district of the city and the governing boards of each of the districts whose boundaries would be changed have agreed in writing to the transfer. If the boundaries of three or more districts would be affected and only one of the districts is not in agreement with the others, the matter may be referred to the State Board of Education whose decision in the matter will be final.

35675. Territory annexed to a city pursuant to Articles 3, 4, 7, and 8 (commencing with Sections 35200, 35250, 35450, and 35470, respectively) of Chapter 1, Part 2, Division 2, Title 4 of the Government Code shall not automatically become a part of any school district within such city pursuant to Section 35502.

35676. Whenever a city is incorporated, except a general law city, the board of supervisors of the county may transfer to the city for school purposes only, the remainder, or any part of the remainder, of the district or districts from which the city was organized, whenever a majority of the electors residing therein petition for such transfer.

The board of supervisors either when the district is formed or

subsequently may include more territory than the remainder of the district or districts from which the city was organized, whenever a petition for this purpose is presented to them, signed by the majority of the electors residing in the additional territory.

The territory transferred may be in either the same or a different county than that of the school district to which it is transferred. If the territory transferred lies in a county other than the county in which the school district to which the territory is transferred lies, the school district shall not become a joint school district by reason of the transfer of such territory.

35677. During the first five years following the effective date for all purposes of the formation of a unified school district formed pursuant to Chapter 2 (commencing with Section 4200) of Chapter 2 of Part 3 of Division 1 of Title 1, no territory shall be removed from the district under any procedure whatever afforded by law without the consent of the governing board of the district having been given prior to the commencement of the proceedings.

35678. After the expiration of the period specified in Section 35677, and throughout the next six succeeding years, whenever it is proposed under this code or under any other provision of law, to withdraw territory containing more than two hundred fifty thousand dollars (\$250,000) in assessed valuation from a unified school district maintaining 500 or more schools, such proposal shall not be effected without the prior written approval of the governing board of that district.

#### Article 7. Transfer—Between Elementary Schools

35690. Any part of an elementary, or unified, district which is less than the whole of the district may be transferred from that district to another elementary, unified district pursuant to this article.

35691. An action to transfer inhabited territory from an elementary, or unified district to another elementary, or unified district is initiated upon the filing with the county superintendent of schools of a petition for transfer signed by either:

(a) Twenty-five percent of the registered electors residing in the territory proposed to be transferred, or

(b) A majority of the members of the governing board of each school district affected by the proposed change.

A petition to be presented to electors for signature pursuant to subdivision (a) shall contain the proponent's statement of the reason or reasons for the proposed transfer.

This section shall not be applicable to any transfer to which the provisions of Section 35695 apply.

35692. An action to transfer uninhabited territory from an elementary, or unified district is initiated upon the filing with the county superintendent of schools of a petition signed by either:

(a) A majority of the members of the governing board of each school district affected by the proposed change.

(b) The owner of the property, provided said owner has filed a tentative subdivision map with the appropriate county agency.

35693. Within 20 days after the filing of a petition under subdivision (b) of Section 35692, the county superintendent of schools shall transmit the petition to the governing board of the district to which the territory is to be transferred. Such governing board shall set a date for a hearing on the petition which shall be within 30 days of the receipt of the petition and the county superintendent shall notify the chief petitioner or petitioners of the time and place of the hearing. At the hearing the petitioners and any other interested person shall be given an opportunity to present their views on the petition. The governing board then shall either approve or deny the petition. No transfer shall be made unless a majority of the members of the governing board sign a statement agreeing to the transfer. Upon completion of the hearing the governing board shall return the petition together with a notice of action of the governing board to the county superintendent of schools.

35694. The county superintendent of schools shall within 20 days after the filing of a petition under subdivision (a) or (b) of Section 35691 or subdivision (a) of Section 35692, examine it and, if he finds it to be sufficient and signed as required by law, transmit the petition to the county committee on school district organization.

If the petition is filed under subdivision (b) of Section 35692, accompanied by the statement agreeing to the transfer by the governing board of the district to which the territory is to be transferred, it shall be transmitted to the county committee on school district organization.

35698. A petition transmitted to the county committee pursuant to this article shall be considered at the next regular meeting of the committee or at a special meeting called for the purpose.

The county committee shall prepare a report and recommendation. It shall report as to whether or not in the opinion of the committee the proposed transfer would adversely affect the school district organization of the county; whether it is compatible with any master plans approved by the State Board of Education; and how, in the judgment of the committee, the proposed transfer will affect racial or ethnic integration of the schools of the districts affected. The report shall also contain a statement of the committee's findings on the adequacy of the proponent's stated reason or reasons for the proposed transfer, as set forth in the petition pursuant to Section 35691.

The report may include other pertinent matter which the county committee desires to bring to the attention of the State Board of Education, board of supervisors, or county board of education, as the case may be.

35699. If the county committee finds that the proposed transfer is compatible with the master plan of the county and would not adversely affect racial or ethnic integration of the schools of the

districts affected, the petition and report shall be transmitted to the county board of supervisors or county board of education, as the case may be, by the county superintendent of schools.

If the county committee finds that the proposed transfer is incompatible with the master plan of the county or will adversely affect racial or ethnic integration of the schools of the districts affected, the report and petition shall be transmitted to the State Board of Education by the county superintendent of schools.

35700. The State Board of Education shall adopt guidelines which may be used by county committees in making their determination of whether a transfer of territory would adversely affect racial or ethnic integration of the schools of the districts affected.

35701. (a) Any person questioning the finding of the county committee pursuant to Section 35699 that the proposed transfer of territory will not adversely affect the racial or ethnic integration of the schools of the districts affected, may appeal a decision made upon such a finding. The appeal shall be made to the State Board of Education within 30 days. The appeal shall be based upon factual and statistical evidence.

If the State Board of Education denies the appeal, the decision of the county board of supervisors or the county board of education shall stand. If the State Board of Education approves the appeal it shall review the findings of the county board of supervisors or the county board of education at a regular meeting of the board.

The State Board of Education shall notify the county committee, the county board of supervisors, or the county board of education of its decision on the appeal. For purposes of this section if the State Board of Education approves the appeal, the county board of supervisors or the county board of education shall transmit a copy of the proceedings to the State Board of Education within 30 days after receipt of notice. The State Board of Education shall review the transcript, considering all factors involved. The State Board of Education may affirm the decision of the county board of supervisors, or the county board of education, or if it appears that inadequate consideration was given to the effect of the transfer on integration of the schools of the districts affected, it shall direct the county board of supervisors or the county board of education to reconsider its decision and for this purpose to hold another hearing. The State Board of Education shall transmit a copy of its findings and recommendations to the county board of supervisors or the county board of education and the county committee on school district organization.

(b) The governing board of any school district whose boundaries would be affected by the proposed change and the chief petitioners, if any have been designated, may appeal the decision of the county board of supervisors or the county board of education made following receipt of the report and recommendation of the county committee pursuant to Section 35698. The appeal shall be made to the State Board of Education within 30 days and shall be based upon factual evidence.

The appeal shall be heard in the same manner as a petition for a new district as provided in Section 35513. After hearing the matter, the State Board of Education shall grant or deny the appeal. If the State Board of Education denies the appeal, the decision of the county board of supervisors or the county board of education shall stand. If the State Board of Education grants the appeal, it may (1) reverse the decision of the county board of supervisors or the county board of education, (2) direct the county board of supervisors or county board of education to reconsider its decision, or (3) order an election to be held in the territory comprising the districts, the boundaries of which would be affected.

The State Board of Education shall notify the county committee, the county board of supervisors, the county board of education, the governing board of each district affected, and the chief petitioners, if any have been designated, of its decision.

35702. The petition shall be heard by the State Board of Education in the same manner as a petition for a new district as provided in Section 35513.

After hearing the matter, the State Board of Education shall grant or deny the petition. If the petition is granted, the board may order that the transfer be effected or order an election to be held in the territory. The board may determine that the election shall be held only in the territory proposed to be transferred or in the entire district from which the transfer is proposed to be made.

The secretary of the board shall return the petition to the county superintendent of schools together with a notice of the decision of the state board.

35703. After receiving notice of the action taken by the State Board of Education the county superintendent of schools shall (a) file the order of the board with the county board of supervisors which board shall make the order required by Section 4025, or (b) call and conduct an election as ordered by the State Board of Education.

35704. When the petition, report and recommendation are transmitted to the county board of supervisors, the county superintendent of schools shall set the matter for hearing by the board of supervisors at a regular meeting of the board.

At least 10 days prior to the date of the hearing the county superintendent shall send by certified mail a notice of hearing and a copy of the report and recommendation of the county committee to the chief petitioners, if any have been designated, and to the governing board of each school district whose boundaries would be affected by the proposed change, and shall post copies of the notice as provided in Section 5362 or publish a copy of the notice as provided in Section 5363.

35705. After hearing all interested persons, the board of supervisors shall grant or deny the petition or require an election to be held. If the board grants the petition it shall determine whether all or only a part of the territory shall be transferred. If the board

requires an election to be held it shall determine whether the election shall be held in the whole elementary or unified district from which the territory would be transferred or whether the election shall be held only in the territory proposed to be transferred. The county superintendent of schools shall call, hold, and conduct any election required by this section.

35706. Notwithstanding any provisions of Section 35705 or other sections to the contrary:

(a) The governing board of the district to which the territory is to be transferred may file written opposition to the transfer with the county superintendent of schools prior to the hearing by the board of supervisors required to be held in accordance with Section 35704. If written opposition to the transfer of inhabited territory is so filed, the county superintendent of schools shall require an election to be held on the question. The election shall be held in the school district to which the territory is to be transferred.

(b) The governing board of the district from which the territory is to be transferred may file written opposition to the transfer with the county superintendent of schools prior to the hearing by the board of supervisors. If written opposition to the transfer of inhabited territory is so filed, the county superintendent of schools shall require an election to be held in the entire school district from which the territory will be taken.

35707. An election conducted under provisions of this article shall be determined by the majority of votes cast.

#### Article 8. Lapsation

35720. Any school district which has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12, except that for any unified district which has established and operates at least one senior high school grade for all of the pupils of the district in the grade and continues to establish and operate at least one additional senior high school grade each year for all of the pupils of the district in the grade, the board of supervisors shall defer the lapsation of the district for one year upon a written request of the governing board of the district and written concurrence of the county committee. The board of supervisors shall make no more than three such deferments.

35721. The attendance of pupils residing in a unified district in high schools in an adjoining state pursuant to Section 44618 or Article 1 (commencing with Section 2000), Chapter 7 of Part 2 of Division 1 of Title 1 shall be deemed for the purposes of this article to be in high schools established and maintained by the unified district.

35722. Within 30 days after the close of each school year the county superintendent of schools shall report to the county board of

supervisors the name of any school district under his jurisdiction wherein the number of registered electors is less than six or the average daily attendance during the school year has been less than the numbers specified in Section 35720. The county superintendent shall at the same time recommend to the board of supervisors the district or districts to which the territory may best be annexed after the district has been lapsed.

35723. When the county board of supervisors receives the report of the county superintendent as provided in Section 35722 it shall order the district or districts to be lapsed. It shall also either order the territory of the lapsed district annexed to one or more adjoining districts as the county superintendent has recommended or it shall order a public hearing to be held on the question. If a public hearing is ordered the board shall fix the time thereof and shall provide that a notice be sent by registered mail at least 10 days before the hearing to each member of the governing boards of each of the districts which adjoin the lapsed district and to the persons who were members of the governing board of the lapsed district immediately prior to its lapsation. After the hearing the board of supervisors shall order the territory of the lapsed district annexed to one or more adjoining districts as seems to the board to be in the best interests of the adjoining districts and of the residents of the lapsed district.

35724. If the board of supervisors orders the territory of a lapsed district annexed to more than one adjoining district it may provide for such a division of the funds, property, and obligations of the lapsed district as it deems most equitable in the circumstances. If no division is provided for by the board the general provisions of Article 7 (commencing with Section 4120) of Chapter 1 of Part 3 of Division 1 of Title 1 shall apply to the division of funds, property, and obligations of the lapsed district.

#### Article 9. Dissolution

35740. Any union or joint union elementary school district formed by combining previously existing districts of the same kind, and which has been in existence three years or more, may be dissolved and the former districts composing the union or joint union elementary school district reestablished in the manner prescribed by this article.

35741. An action to dissolve a union district and to reestablish the former districts is initiated upon the filing with the county superintendent of schools of a petition signed by two-thirds of the electors residing in the district who have children attending the school or schools of the district. The petition shall set forth briefly the reasons for dissolution and request that the question be submitted to the voters in the district.

35742. When a petition for dissolution is presented pursuant to this article the county superintendent shall examine the petition and if he finds it to be sufficient and signed as required by law he shall,

within 20 days after such finding, call, hold, and conduct, in the manner prescribed in Division 4 of this code, an election in the district. The ballot shall contain the words "For dissolution of the \_\_\_\_\_ Union District and reestablishment of the \_\_\_\_\_ and \_\_\_\_\_ Districts" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

35743. If two-thirds of all votes cast at the election are in favor of dissolution, the district shall be dissolved and the former districts shall be reestablished.

35744. If a majority of all the votes cast at the election is opposed to dissolution, no further petition shall be entertained or election ordered for a similar purpose within three years following the election.

35745. Within 30 days after the close of the last school year of the dissolved district the county superintendent of schools shall report to the county board of supervisors the name of any former district in the dissolved district wherein the average daily attendance of pupils residing within the boundaries of the former district has been less than six during the last year of the dissolved district. Any such former district shall be lapsed and its territory attached to one or more adjoining districts in the manner provided in Article 8 (commencing with Section 35720) of this chapter.

#### Article 10. Annexation

35760. Any district may be annexed to a contiguous district of the same kind so that the annexed district ceases to exist and its territory is merged with and becomes a part of the annexing district.

35761. An elementary or high school district may be annexed to a contiguous unified district so that the annexed district ceases to exist and the territory is merged with and becomes a part of the annexing district.

35762. Whenever provision is made in this chapter for the annexation of one school district to another, two or more school districts adjoining each other may be annexed simultaneously to a school district contiguous to one or more of the adjoining districts. If the proposed annexation of one of the adjoining districts fails and by reason of the failure any of the districts voting to be annexed would be noncontiguous to the annexing district, the annexation of the district or districts shall be void and of no effect.

35763. An annexation action pursuant to this chapter is initiated upon the filing with the county superintendent of schools of a petition for annexation and an agreement to the annexation.

35764. The petition for annexation shall be signed by 25 percent of the registered electors of the district proposed to be annexed or by a majority of the members of the governing board of that district.

35765. The agreement to the annexation shall be signed by a majority of the members of the governing board of the district to which annexation is proposed and of the governing board of the

district of which the transferring district is a component.

35766. Terms and conditions for the annexation may be agreed upon by the governing board of the district seeking annexation and the governing board of the district to which annexation is sought. Such terms and conditions shall be signed by a majority of the members of governing boards agreeing thereto.

35767. The county superintendent of schools shall, within 20 days after receiving the petition for annexation, examine the petition and agreement and, if he finds them to be sufficient and signed as required by law, order an election to be held in the petitioning district to determine the question. The ballot used in the election shall contain the words "For annexation of the (name of petitioning district) District to the (name of annexing district) District" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

#### Article 11. Tax Rates, Property, Funds, and Other Obligations

35780. All property, funds, and obligations of a district included in whole in a unified school district, other than the bonded indebtedness thereof as provided in this article, and other than funds derived from the sale of bonds issued by the included district, shall become the property, funds, and obligations of the unified school district. Any funds derived from such bonds issued by the included district shall be expended by the governing board of the unified district either for the retirement of the bonds or for the acquisition of school property only in the area comprising the included district.

35781. If a recommendation is made for the unification of an area which is coterminous with a union high school district, or a city high school district, and if the voters of the high school district at an election prior to reorganization had voted a special tax for a specified period of years, the tax shall, if the unified district is subsequently established by the voters, be continued at the option of the governing board of the newly formed unified school district for only those purposes for which the tax was originally voted and for a period not to exceed the number of years for which the tax was previously authorized.

35782. If a recommendation is made for the unification of an area which is coterminous with an elementary school district and if the voters of the elementary school district at an election prior to the reorganization had voted a district tax rate in excess of the maximum tax rate, the tax shall, if the unified district is subsequently established by the voters, be continued at the option of the governing board of the newly formed unified school district for a period not to exceed the remaining number of years for which the tax was previously authorized. This section shall apply to unified districts in existence for all purposes on and after July 1, 1954.

## Article 12. Dissolution of Unified Districts

35800. After three years from the effective date of its formation, a unified school district may be dissolved in the manner prescribed by this article.

35801. An action to dissolve a unified district is initiated upon the filing with a county superintendent of schools having jurisdiction over the district of a petition signed by 25 percent of the registered voters residing in the district. The petition shall set forth briefly the reasons for dissolution and pray that the question be submitted to the county committee of the county whose superintendent has jurisdiction over the district for study and recommendations.

35802. When a petition for dissolution is presented to the county superintendent of schools, he shall examine the petition and if he finds it to be sufficient and signed as required by law he shall transmit the petition to the county committee.

35803. When the county committee has received a petition for dissolution as provided in this article, the committee shall study the district in the manner provided in Article 6 (commencing with Section 4320) of Chapter 2 of Part 3 of Division 1 of Title 1.

35804. The county committee shall study the territory included in the unified school district and shall formulate plans and recommendations to be submitted to the State Board of Education for the dissolution of the unified school district.

The State Board of Education shall act on the matter within 90 days of the receipt of the plans and recommendations of the county committee.

35805. The plans and recommendations of the county committee formulated pursuant to Section 35804 shall include the following:

(a) The description of each elementary or unified school district proposed to be established in the territory of the dissolved unified district.

(b) The inclusion of the territory of the dissolved unified district in a new high school district, unified districts or in an existing contiguous high school district or districts, or in an existing contiguous unified district or districts.

(c) Proposals for the division of property other than real property, funds, and obligations including bonded indebtedness of the unified district among the districts in which the territory is included.

Any real property used for elementary school purposes shall become the property of the elementary district in which it is located following the dissolution. Any real property used for high school or junior high school purposes shall become the property of the high school district in which it is located following the dissolution.

35806. After the State Board of Education has approved the plans and recommendations for the dissolution of the unified school district, the secretary of the board shall so notify the county superintendent of schools having jurisdiction of the district. Thereupon the county superintendent of schools shall call and

conduct a special election in the unified school district in the manner prescribed by Article 8 (commencing with Section 4400) of Chapter 2 of Part 3 of Division 1 of Title 1 except that the ballots used for voting upon the adoption or rejection of the plans and recommendations of the county committee shall have printed on them the words "For dissolution—Yes" and "For dissolution—No."

35807. If a majority of all the votes cast at the election is opposed to dissolution, no further petition shall be entertained or election ordered for a similar purpose within three years following the election.

35808. When a unified district is dissolved pursuant to this article, all property of the district, together with any money in the treasury to the credit of the dissolved district, shall be transferred to the credit of the newly formed school districts that composed the dissolved district in accordance with the plans and recommendations of the county committee. Within 30 days after the dissolution of the unified school district becomes effective for all purposes, the county auditor of the county whose superintendent of schools has jurisdiction over the district shall determine the balance of the funds standing to the credit of the dissolved unified school district as of the effective date of such dissolution. Thereupon he shall transfer from the general fund of the unified school district to the general fund of each of the newly established districts such sums as may be necessary to give effect to the plans and recommendations of the county committee. With respect to property other than funds of the district, the board of supervisors of the county whose superintendent of schools has jurisdiction of the unified school district shall make such orders as may be necessary to give effect to the plans and recommendations of the county committee.

35809. If the State Board of Education disapproves the plans and recommendations for the dissolution of the unified school district, the board shall notify the county superintendent of schools and the county committee on school district organization having jurisdiction of the district of such action, and shall submit to them a written statement of the reasons for such disapproval.

35810. In the event of such disapproval of plans and recommendations by the State Board of Education, the county committee shall continue to have jurisdiction of such plans and recommendations, and may revise them as required to overcome the State Board of Education's reasons for disapproval, and prepare them for resubmission to the state board as otherwise provided by this article. Such revised plans and recommendations shall be resubmitted to the state board no later than 18 months after the state board disapproved the original plans and recommendations, and if they are not resubmitted by that time, the county committee shall no longer have jurisdiction of such plans and recommendations.

### Article 13. Component Districts

35830. The boundaries of each high school district shall be coextensive with the boundaries of the component district or districts included within it.

35831. When the boundaries of a district which is a component of a high school district are for any cause changed to include territory not previously in the district, the territory added to the district shall at the same time become and constitute a part of the high school district.

35832. When the boundaries of a district which is a component district of a high school district are changed so as to exclude territory from the district, the excluded territory shall at the same time be excluded from the high school district.

35833. When a new elementary district is formed from territory situated wholly within one high school district, the new school district shall be a component of that high school.

35834. When a new elementary school district is formed from territory situated in more than one high school district, the county superintendent of schools shall order an election to be held in the new district to decide to which high school district the new district shall belong. The election shall be held prior to the date on which the formation of the new district is effective for all purposes.

35835. When a new elementary district is formed to include territory part of which was in one or more high school districts and part of which was in no high school district, the whole of the new district shall be a component of one high school district.

When the territory of the new district was included in not more than one high school district, the new district shall be a component of that high school district.

When parts of the territory of the new district were included in more than one high school district, the whole of the new district shall be a component of the high school district selected by the voters in an election to be ordered and held as provided in Section 35834.

### Article 14. Inclusion of All Elementary Districts in High School or Unified Districts

35850. The Legislature hereby declares as its policy that all elementary school districts shall be included in a high school district or in a unified school district.

35851. The county committee of each county in which there is an elementary school district not included within a high school district shall formulate plans and recommendations to be submitted to the State Board of Education for one of the following:

(a) The formation of high school districts or unified school districts comprising one or more of such elementary school districts and the annexation of any such elementary school districts not included therein to the existing high school district or unified school

district whose high school is most easily accessible to the pupils of the elementary school district.

(b) The annexation of each of the elementary districts to the existing high school district or unified school district whose high school is most easily accessible to the pupils of the elementary school district.

35852. The county committee of each county in which there is a portion of any elementary school district not included within a high school district shall formulate plans and recommendations to be submitted to the State Board of Education for the annexation or transfer of such portion of such elementary school district to the existing high school district or unified school district whose high school is most easily accessible to the pupils of the elementary school district.

35853. Plans and recommendations submitted to the State Board of Education which include the territory of two or more counties, which provide for annexation or transfer to a district under the jurisdiction of another county, or, which provide for the formation of a joint district shall be concurred in by the county committee of each such county.

35854. When territory has been selected for the tentative preparation of plans and recommendations, the county committee shall hold one or more public hearings in the territory at which any interested person may be heard. Any public hearing may be continued from time to time. Notice of the hearing shall be given in the manner provided in Section 4406. The notice shall contain a general statement of the purpose of the hearing and the time and place thereof.

35855. Plans and recommendations required by this article shall be formulated and submitted by county committees to the State Board of Education.

35856. The State Board of Education shall consider plans and recommendations submitted to it by a county committee and shall either approve or reject them. If the plans and recommendations submitted by a county committee provide for the inclusion of an elementary district which is coterminous with the boundaries of the county in a high school district or a unified district the State Board of Education may postpone any action until such time as they deem it appropriate for action to be taken.

35857. If the State Board of Education approves plans and recommendations submitted to it by a county committee, it shall enter an order of such approval in its minutes. The order shall describe the boundaries of a new high school district or unified school district and the boundaries as changed in an existing high school district or unified school district.

If the State Board of Education rejects plans and recommendations submitted to it by a county committee, it shall order the county committee to formulate and submit, in the manner provided in this article, new plans and recommendations to the board within such

time as may be determined by the board.

35858. The State Board of Education shall reject any plans and recommendations submitted by a county committee pursuant to this article which have the effect of making any elementary district a part of a unified district if the State Board of Education has prior to the effective date of this section received a petition of protest by electors and rejected prior plans and recommendations for the inclusion of such elementary district in a unified district pursuant to subdivision (e) of former Section 2229 of the Education Code as it read immediately prior to September 17, 1965.

35859. Upon approval of plans and recommendations submitted to it by a county committee, the State Board of Education shall notify all school districts affected and the board of supervisors and the county superintendent of schools of each county in which any part of the territory affected is situated.

The board of supervisors shall issue the necessary orders and take such other action as set forth in Section 4025.

## PART 22. SCHOOL OPERATIONS

### CHAPTER 1. MAINTENANCE OF SCHOOLS

#### Article 1. Location of Schools and Classes

37000. Except as provided in this article, any regular day school required to be maintained by the governing board of any school district shall be maintained within the boundaries of the district.

37001. Whenever the governing board of a school district is unable to maintain the school or schools in the district because of its inability to secure a teacher or teachers, or because of lack of facilities, the board may, with the approval of the county superintendent of schools having jurisdiction and the Superintendent of Public Instruction maintain the school or schools of the district elsewhere than within the district or contract for the education of the pupils of such school or schools with the governing board of another district.

37002. The governing board of any school district, may establish and maintain outside of the boundaries of the district, for persons in the service of the United States or of the state assigned to, or serving at any camp, post, or other place under the jurisdiction of the United States or of the state, or for persons employed or living on any such camp, post, or other place, or for persons evacuated from the district by order of any military officer of the United States or of the state, to meet an emergency created by war, or of any civil officer of the United States, the state, or any county, city and county, or city authorized to order such evacuation to meet an emergency created by war, and for the children or wards of such persons any schools or classes which the board may lawfully establish and maintain within the boundaries of the district.

The governing board of the district shall not maintain any school or class for other than persons and their children or wards evacuated from the district, under the provisions of this section in any other school district without the consent of the governing board of the other district.

37003. The governing board of any school district situated in a county with a population of 228,309 or more may enter into an agreement with the federal government in the form of a term special use permit whereunder the school district is authorized to construct, maintain and operate school buildings and facilities upon National Forest Service land. Such agreement shall be for a term of twenty (20) years or more, unless sooner terminated by the federal government. Subject to the approval of the Superintendent of Public Instruction, such agreement shall be on such terms and conditions as may be agreed upon between the governing board of the school district and the agency of the federal government executing such agreement.

All acts and proceedings heretofore undertaken by the governing board of any school district under any law, or under color of any law, pursuant to any such agreement or term special use permit whereunder the school district has constructed, or operated and maintained, or both, school buildings and facilities are hereby validated and declared legally effective.

37004. Notwithstanding any other provision of this code to the contrary, whenever under the provisions of Section 310 of the act of Congress entitled, "An act relating to the construction of school facilities in areas affected by federal activities, and for other purposes" (Public Law 815—81st Congress), or under any similar provisions of any other act of Congress, school facilities are constructed by any agency of the federal government on federal property for the education of children residing on property owned by the federal government, the governing board of the school district in which such facilities are located or the governing board of any adjacent school district, with the approval of the Superintendent of Public Instruction, may make arrangements with the agency of the federal government to maintain school in such facilities. The children residing on such federal property and attending such school shall be deemed to be residents of the district maintaining such school.

37005. The maintenance of a school by a district outside the boundaries of the district as provided in Sections 50, 1256, and Sections 37001 to 37002, inclusive, shall be deemed for all purposes to be or have been the maintenance of a school within the boundaries of the district.

37006. The making of a contract by the governing board of a district as provided in Sections 50, 1256, and Sections 37001 to 37002, inclusive, shall be deemed to be or have been the maintenance of a school within the boundaries of the district except that the attendance of the pupils under such contract shall be reported by,

and allowances because of the attendance of pupils under such a contract shall be made to, the district of attendance. For the purposes of this section, the average daily attendance of the district in which such pupils reside who are educated under such contract shall be the average daily attendance of the pupils educated under such contract.

37007. The governing board of a unified school district coterminous with the boundaries of a city and county, may conduct classes for wards of the juvenile court of said city and county, and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the said school district.

37008. The governing board of a school district coterminous with the boundaries of a city and county, may conduct classes at the airport and at the county jail which are owned and operated by the city and county, outside of the boundaries of the school district.

## Article 2. Grade Levels Generally

37020. The governing board of any elementary school district shall maintain within the boundaries of the district at least one elementary day school.

37021. The governing board of any high school district shall maintain within the boundaries of the district at least one four-year high school or one senior high school and one junior high school, as provided in Section 37101.

37022. Each unified school district shall maintain classes at least in grades 1 through 12.

37023. Whenever any unified school district maintains classes in elementary grades and provides for the high school education of the pupils of the district who reside in the district by the attendance of such pupils at the schools of a school district in an adjoining state pursuant to Section 46618 or Article 1 (commencing with Section 2000) of Chapter 7 of Part 2, of Division 1, Title 1, such unified school district shall be deemed to have complied with the requirement of Section 37022 that every unified school district shall maintain classes at least in grades 1 through 12.

37024. Except as otherwise provided, the courses of study for the day elementary schools in districts maintaining junior high schools shall embrace six years of instruction, and in districts in which junior high schools are not maintained, the courses of study shall embrace eight years of instruction. Courses shall allot six or eight years, respectively, for instruction in subjects required to be taught in such schools and may allot not more than two years for kindergarten instruction.

The course of study for any day elementary school located in an elementary school district situated in a high school district maintaining one or more junior high schools, where the districts are governed by boards of identical personnel, shall embrace six years or eight years at the discretion of the governing board of the elementary school district.

The courses of study for the day elementary schools of a unified school district maintaining one or more junior high schools shall embrace six years or eight years, or some of the elementary schools may be maintained for six years and some may be maintained for eight years. The courses of study for any day elementary school located in an elementary school district situated in a union or joint union high school district maintaining one or more junior high schools shall be six years or eight years at the discretion of the governing board of the elementary school district if such high school district did not maintain a junior high school prior to July 1, 1943, and if such elementary school is located 40 miles or more by the nearest traveled road from any junior high school maintained by such high school district.

In all other cases, the courses of study of any elementary school shall embrace eight years.

Each day elementary school may allot not more than two years kindergarten instruction.

37025. Notwithstanding anything in Section 37024 to the contrary, an elementary school district otherwise authorized to maintain a course of study for the day elementary schools of the district embracing only six years of instruction which during the school years 1943-1944 and 1944-1945 maintained a course of study for the day elementary schools of the district embracing eight years of instruction is authorized to maintain a course of study for such schools embracing six years of instruction or eight years of instruction at the discretion of the governing board of the district.

37026. Notwithstanding anything in Section 37024 to the contrary, an elementary school district otherwise authorized to maintain a course of study for the day elementary schools of the district embracing only six years of instruction which during the school years 1953-1954 and 1954-1955 maintained a course of study for the day elementary schools of the district embracing seven or eight years of instruction is hereby authorized to enter into an agreement with the governing board of the high school district maintaining junior high schools in the district, subject to the approval of the county superintendent of schools having jurisdiction, stipulating the terms upon which the elementary school district shall educate pupils of the seventh or eighth grades, or both, of the junior high school.

Any contract entered into pursuant to this section does not in any manner change the legal status of any high school district authorized to maintain seventh and eighth grades, and the authorization and obligation of such high school district to furnish school buildings for such seventh and eighth grade pupils is and shall continue to be a sole responsibility of such district.

Contracts entered into pursuant to this section may be for a term of not to exceed five consecutive school years.

## Article 3. Kindergartens

37040. The governing board of any school district that maintains one or more elementary schools shall establish and maintain such number of kindergartens as are necessary for children living in the district who are eligible for admission pursuant to Section 48000 but are not eligible for admission pursuant to Section 48010 and whose parents or guardians present them for admission.

(Amended by Stats. 1976, Ch 1011.)

## [ORIGINAL SECTION]

37040. The governing board of any school district that maintains one or more elementary schools shall establish and maintain such number of kindergartens as are necessary for children living in the district who are eligible for admission pursuant to Section 37250 but are not eligible for admission pursuant to Section 48010 and whose parents or guardians present them for admission.

37041. The kindergarten and the first grade may be combined in one class if the total class enrollment does not exceed the enrollment fixed by Section 41376 as permissible for grade 1 without reduction of average daily attendance. The attendance of the children enrolled in the kindergarten in such a class shall be counted as attendance upon a kindergarten.

37042. A preschool educational program established by a school district or by a county superintendent of schools pursuant to Section 8320 may be combined in one class with a kindergarten in a school maintained by such district or within the jurisdiction of such county superintendent of schools, in any situation in which Section 37044 is applicable with respect to the duty to establish a kindergarten. The attendance of only those children enrolled in the kindergarten in such a class shall be counted as attendance upon a kindergarten.

37043. The reports for the kindergarten classes shall be kept and made separate from other school reports.

37044. Notwithstanding any other provision of law to the contrary, the governing board of any school district that maintains one or more elementary schools may elect not to establish and maintain a kindergarten at any elementary school in which there are nine or less applicants for kindergarten attendance in the attendance area of that elementary school, subject to approval of State Board of Education.

37045. The governing board may conduct the kindergarten in the same room with and by the same teacher conducting one or more elementary grades maintained by the district. The minimum schoolday for pupils of a kindergarten which is so conducted is 180 minutes, inclusive of recesses, and the attendance of the children enrolled in the kindergarten shall be counted as attendance upon a kindergarten. The minimum schooldays for pupils of the other grades so conducted are those specified in Sections 46112 and 46113, exclusive of noon intermissions and recesses, and the attendance of the children enrolled in such other grades shall be counted as attendance upon those grades.

No teacher shall teach more than one such class in any single schoolday.

37046. The principal in each of the public schools maintaining a kindergarten shall keep a register, open to the inspection of the public, of all children in kindergarten.

#### Article 4. Contracts with the California State University and Colleges

37050. The governing board of any elementary school district within which a campus of the California State University and Colleges is located may contract with the Trustees of the California State University and Colleges for the education by such campus, of pupils eligible to attend school in the elementary school district. The pupils educated by such campus, under the contract may be housed on such campus or in a building of the school district.

#### Article 5. Junior High Schools

37060. In any high school district governed by a city or a city and county board of education, one or more junior high schools may be established at any time by resolution of the board.

37061. The governing board of a county, a union, or a joint union high school district may establish a junior high school or a system of junior high schools only when a majority of the boards of trustees of the elementary school districts comprising the high school district approve the organization of the course in writing, and file a statement of approval with the high school board, or, when at an election called for that purpose a majority of the qualified electors voting thereat vote in favor of the junior high school. Upon the order of the governing board of the high school district, the election shall be called and conducted by the county superintendent of schools having jurisdiction over the high school district, in the manner provided for school elections in Chapter 3 (commencing with Section 5300) of Part 4 of Division 1, Title 1. The ballots used at the election shall contain the words "Junior High School—Yes" and "Junior High School—No" with suitable spaces so that the voter may clearly indicate his choice in the matter.

37062. (a) The governing board of any elementary school district situated within a high school district maintaining a junior high school shall permit pupils who have completed the sixth year of the elementary school to attend the junior high school and shall pay to the high school district for the education of the pupils a tuition charge determined pursuant to this section.

(b) The amount of the tuition charge for the 1973-74 fiscal year shall be computed by the county superintendent of schools as follows:

(1) Divide the tuition paid to the high school district in the 1972-73 fiscal year, exclusive of funds received pursuant to Public Law 81-874, by the estimated average daily attendance of seventh- and eighth-grade pupils in the second principal apportionment of

that year attending junior high schools in the high school district.

(2) Divide the taxes raised from the assessed valuation of the elementary district pursuant to Section 42212, in the 1972-73 fiscal year, by the estimated average daily attendance of seventh- and eighth-grade pupils in the second principal apportionment of that year attending junior high schools in the high school district.

(3) Add the amounts computed per unit of average daily attendance in paragraphs (1) and (2) and the estimated state apportionment per average daily attendance for seventh- and eighth-grade pupils in the 1972-73 fiscal year.

(4) The increased revenue per unit of average daily attendance as computed in subdivision (f) of Section 42233 added to the amount established in paragraph (3) shall be the tuition limit per unit of seventh- and eighth-grade average daily attendance for the 1973-74 fiscal year attending junior high schools in the high school district.

(c) An elementary district whose seventh- and eighth-grade pupils are entering junior high and for which no tuition limit can be determined pursuant to subdivision (b) shall pay a tuition agreed upon between the high school district and the elementary district, which shall be no less than the revenue limit per unit of average daily attendance of the elementary district for that year.

(d) For the 1974-75 fiscal year and fiscal years thereafter, the tuition limit per unit of average daily attendance as computed pursuant to subdivision (b) or (c) shall be adjusted by the increase in the revenue limit per unit of average daily attendance computed pursuant to subdivision (g) of Section 42238 for the current year.

(e) The tuition limit per unit of seventh- and eighth-grade average daily attendance determined pursuant to this section less the state apportionment transferred pursuant to Section 41338 shall be the maximum amount that the elementary district shall pay to the high school district.

37063. In addition to the tuition limit computed in subdivision (c) of Section 37062, those elementary school districts participating in a junior high school which receive funds pursuant to Public Law 81-874 shall pay an amount equal to 90 percent of the entitlement paid from funds received pursuant to Public Law 81-874 for the pupils in grades 7 and 8 attending junior high schools in the high school district to the high school district as a part of the tuition charge pursuant to Section 37062.

37064. On or before January 1 of each fiscal year, the governing board of the elementary school district shall draw its warrant in favor of the high school district against the general fund of the elementary school district in the amount of 50 percent of the estimated tuition charge due to the high school district for the attendance of pupils at the junior high school during the current fiscal year, exclusive of state apportionments transferred pursuant to Section 41338. The amount of the warrant shall be credited to the general fund of the high school district.

On or before May 1 of each fiscal year, the governing board of the

elementary school district shall draw its warrant in favor of the high school district against the general fund of the elementary district in the amount of 30 percent of the estimated tuition charge due to the high school district for the attendance of pupils at the junior high school during the current fiscal year, exclusive of state apportionments transferred pursuant to Section 41338. The amount of the warrant shall be credited to the general fund of the high school district.

On or before July 15 following the close of the fiscal year, the governing board of the elementary school district shall draw its warrant in favor of the high school district against the general fund of the elementary school district in the amount of the difference between the final tuition as computed by this section and the sum of the first and second installment paid to the high school district. The amount of the warrant shall be credited to the general fund of the high school district. The revenues, although received after the close of the fiscal year, shall be considered revenues of the preceding fiscal year.

37065. Notwithstanding Section 37062, the governing board of an elementary school district situated within a high school district maintaining a junior high school is not required to permit its pupils who have completed the sixth year of the elementary school to attend the junior high school maintained by the high school district if the elementary school district has, pursuant to the provisions of this article, withdrawn from the junior high school system maintained by the high school district.

37066. If the tuition is not fixed before the time fixed for the county superintendent of schools to submit the budgets of the district to the board of supervisors, the county superintendent having jurisdiction over the elementary school district shall fix the amount of the tuition and shall incorporate the amount in the budgets of the districts concerned.

37067. If the trustees in any school district fail to draw warrants for tuition due to a high school district, the county superintendent of schools shall draw his warrant therefor.

37068. The tuition charge shall cease to be paid after the pupil has satisfactorily completed the seventh and eighth grades in the junior high school.

37070. The governing board of any elementary school district not situated in a high school district maintaining a junior high school may permit pupils of their district who have completed the sixth year of the elementary school to attend any junior high school in any district, and shall pay to the district for the education of the pupils by order of the county superintendent of schools, a tuition charge which shall be agreed upon by the governing board of the elementary school district and the governing board of the district maintaining the junior high school.

37071. The board of school trustees, under the arrangement described in Section 37070 shall not pay a tuition charge greater than

the average net cost per pupil for educating pupils in the junior high schools of the district of attendance, as ascertained by the county superintendent of schools, less the amount of any apportionments withheld from the elementary school district and added to the high school district pursuant to Section 41338 or Section 84327, whichever is in effect. The tuition charge shall cease to be paid after the pupil has completed two years of work in the junior high school.

37072. The average daily attendance of all pupils from a district paying any tuition provided for in this article, enrolled in the first two years of the junior high school, shall be kept separate and shall be credited to the elementary school district in which the pupils reside.

37073. Whenever the average daily attendance of pupils enrolled in the first two years of the junior high school of a district is less than 25 for any school year, the junior high school shall lapse.

37074. Any junior high school or system of junior high schools maintained by the governing board of a county, union, or joint union high school district may be discontinued pursuant to Sections 37074 to 37083, inclusive.

37075. Whenever the governing board of the high school district deems it for the best interest of the district to discontinue the maintenance of junior high schools it may adopt a resolution reciting such fact and proposing the discontinuance of the junior high school or system of junior high schools in the high school district.

37076. A copy of the resolution shall be forwarded to the governing board of each of the elementary school districts comprising the high school district and to the county superintendent of schools of the county having jurisdiction of the high school district.

37077. If each of the governing boards of the elementary school districts comprising the high school district adopt a resolution approving the proposal of the high school district to discontinue the junior high school or system of junior high schools and forward a copy of the resolution to the governing board of the high school district and to the county superintendent of schools having jurisdiction of the high school district, the maintenance of the junior high school or system of junior high schools by the governing board of the high school district shall be discontinued as provided in Sections 37074 to 37083, inclusive.

37078. Any action undertaken to discontinue the maintenance of a junior high school or system of junior high schools shall be complete prior to the first day of June of the school year in which the action was begun and shall be effective on the first day of July next succeeding.

37079. During the first school year succeeding the discontinuance of a junior high school or system of junior high schools in any high school district, the pupils of the eighth grade residing in any elementary school district situated in such high school district shall be educated by the high school district pursuant to an agreement entered into between the governing boards of the school districts concerned stipulating the terms upon which the

interdistrict attendance shall be permitted, or upon order of the county board of education prescribing the terms upon which such pupils shall be educated by the high school district.

37080. The governing board of the elementary school district shall not pay, or be required to pay, to the high school district for the education of the eighth grade pupils under Sections 37074 to 37083, inclusive, an amount in excess of the actual net cost to the high school district of educating such pupils but such amount shall not be less than the average net cost of educating pupils in the first seven grades of the elementary schools of the elementary school district.

37081. If the governing board of any elementary school district fails to draw warrants for the amount agreed upon for the education of the eighth grade pupils, or the amount ordered paid by the county board of education, the county superintendent of schools shall draw his warrant therefor.

37082. The average daily attendance of all eighth grade pupils educated by a high school district pursuant to Sections 37074 to 37083, inclusive, shall be kept separate and credited to the elementary school district in which the pupils reside.

37083. Sections 37074 to 37083, inclusive, shall not apply to any high school district which has received an apportionment of funds pursuant to the provisions of Sections 15700 to 15754, inclusive, Sections 15780 to 15795, inclusive, or Sections 16000 to 16105, inclusive, Sections 16150 to 16166, inclusive, and Sections 16190 to 16207, inclusive.

37084. Whenever a majority of the boards of trustees of the elementary school districts comprising the high school district approve a change in the course of instruction in the junior high school or junior high schools established pursuant to Sections 37060 to 37073, inclusive, and Section 37084, and file a written statement of approval with the high school board, then the course of instruction in the junior high school or junior high schools may be changed in accordance with the written statement of approval.

37085. Any school district within a junior high school or system of junior high schools, maintained by the governing board of a county, union, or joint union high school district, may withdraw from the junior high system when a majority of the qualified voters in the district voting thereat vote in favor of withdrawal.

37086. Election proceedings may be commenced upon by either of the following means:

(a) A petition signed by thirty-five percent (35%) of the registered voters residing in the district shall be presented to the county superintendent of schools of the county in which the district is situated, setting forth briefly the reasons for withdrawal and praying that the question be submitted to the voters of this district.

(b) The governing boards of all school districts involved shall agree that an election be held and shall notify the county superintendent of schools of such agreement.

37087. The county superintendent of schools, upon receiving the

petition or notice of agreement shall immediately order an election in the district, submitting to the voters of the district the question of withdrawal.

37088. Any action undertaken to withdraw from a junior high school or a system of junior high schools is complete when the county superintendent issues a certificate of election results. Any such action completed prior to the first day of March shall be effective on the next succeeding July 1 and any such action completed on or after the first day of March shall be effective on the second succeeding July 1.

The pupils in grades 7 and 8 who are withdrawn from the junior high school program pursuant to Sections 37086 and 37087 shall not be counted in determining the eligibility of the elementary district withdrawing for square footage allowances for a state school building aid loan pursuant to Section 15719 if they have already been counted by the high school district maintaining the junior high school program as the basis upon which a state school building aid loan has been granted to the high school district.

#### Article 6. High Schools

37100. Each high school district may, in accordance with law, establish and maintain any of the secondary schools mentioned in Sections 78003 to 78008, inclusive, and Section 52514, Sections 51 to 53, inclusive, 48040, 52500 to 52504, inclusive, 52505 to 52510, inclusive, Article 14 (commencing with Section 35340) of Chapter 2 of Part 21, Article 5 (commencing with Section 37060), Article 6 (commencing with Section 37100) of Chapter 1, Article 4 (commencing with Section 37250) of Chapter 2 of this part, Article 3 (commencing with Section 48020) of Chapter 1, Article 2 (commencing with Section 48810) of Chapter 5, Article 7 (commencing with Section 49040) of Chapter 6 of Part 27, Article 3 (commencing with Section 51720) of Chapter 5 of Part 28 of Division 4, of this title.

37101. Each high school district shall establish and maintain for the convenience of the day pupils of the district at least one four-year high school, or in lieu thereof, at least one junior high school, and one senior high school, or if the high school district is situated within a community college district maintaining a four-year community college, at least one junior high school providing for the education of pupils of grades 7 to 10, inclusive.

A high school district which is coterminous with an elementary school district and which is a part of a community college district maintaining a community college offering four years of work including the 11th, 12th, 13th, and 14th grades may, at the option of the governing board, maintain only one or more junior high schools.

No junior high school or system of junior high schools may be established in a high school district under the provisions of this section except as authorized by Sections 37060 to 37073 inclusive, and Section 37084.

37102. If the governing board of any county high school district deems it expedient to establish and maintain more than one county high school, the additional schools may be established and maintained in the manner prescribed in Sections 51 to 53, inclusive, 48040, 52500 to 52504, inclusive, 52505 to 52510, inclusive, Article 14 (commencing with Section 35340) of Chapter 2 of Part 21, Article 5 (commencing with Section 37060), Article 6 (commencing with Section 37100) of Chapter 1, Article 4 (commencing with Section 37250) of Chapter 2 of this part, Article 3 (commencing with Section 48020) of Chapter 1, Article 2 (commencing with Section 48810) of Chapter 5, Article 7 (commencing with Section 49040) of Chapter 6 of Part 27, Article 3 (commencing with Section 51720) of Chapter 5 of Part 28 of Division 4, of this title, Sections 52511 to 52516, inclusive, and Section 52514 for establishing and maintaining a county high school.

37103. Each high school district may, in addition to the schools provided for in Section 37101, establish and maintain one or more continuation high schools.

37104. Any person who is eligible to attend high school and who does not reside in a high school district or in a unified school district may attend high school in any high school district or unified school district in the county in which he resides or in another county.

37105. No charge for tuition shall be made in any high school district of this state, except as provided in Article 6 (commencing with Section 37100), excluding Section 37113, of Chapter 1 of this part, Article 4 (commencing with Section 48030) of Chapter 1, Article 2 (commencing with Section 48810) of Part 27, of Division 4 of this title.

37106. Whenever a person residing in an elementary school district but not in any high school district or in any unified school district attends a high school in any district within the state, the governing board of the district maintaining the high school shall on or before July 15th of the succeeding school year certify, separately, to the county superintendent of schools having jurisdiction over the elementary school district the amount chargeable to the elementary school district and the amount chargeable to the county school service fund under the jurisdiction of the county superintendent of schools, as tuition for the education of the person during the preceding school year.

37107. The tuition for the education of any person described in Section 37106 shall be computed as follows:

From the total current expense of education, exclusive of the expense of transportation, of pupils in grades 9 through 12 of the high school district or unified school district for the preceding school year subtract state and federal apportionments received by the district except federal apportionments under the act of Congress entitled, "An act to provide financial assistance for local educational agencies in areas affected by federal activities, and for other purposes," approved September 30, 1950 (Public Law 874—81st Congress), or

under any similar provision of any other act of Congress received on account of the attendance of pupils residing in the district; and divide the remainder by the total number of units of average daily attendance in grades 9 through 12 of the high school district or unified school district during the preceding school year.

The total tuition chargeable to any elementary school district shall be computed as follows:

(a) Multiply the resulting quotient by the units of average daily attendance during the preceding school year of pupils in grades 9 through 12 residing in the elementary school district, and not residing on a military reservation of the United States, and attending the high schools of the high school district or unified school district; subtract the amount of federal apportionments under the act of Congress entitled, "An act to provide financial assistance for local educational agencies in areas affected by federal activities and for other purposes," approved September 30, 1950 (Public Law 874—81st Congress), or under any similar provision of any other act of Congress received on account of attendance of pupils residing in the elementary school districts, and not residing on a military reservation of the United States, and attending the high schools of the high school district or unified school district; add two hundred dollars (\$200) for each of such units of average daily attendance for the use of buildings and equipment; and add the actual expense of transportation provided by the high school district to such pupils.

(b) Add to the total arrived at under subdivision (a) the total current expense less federal and state apportionments to the high school district or unified school district of education of pupils of the elementary school district as described in Section 37106 in any classes whatever other than classes in grades 9 through 12 of the high school district or unified school district.

The total amount chargeable against the county school service fund of any county shall be determined by: (a) multiplying the quotient utilized under subdivision (a), above, by the units of average daily attendance during the preceding school year of pupils in grades 9 through 12 residing in the elementary school district, and on a military reservation of the United States, and attending the high schools of the high school district or unified school district; and (b) adding thereto the total current expense less federal and state apportionments to the high school district or unified school district of education of pupils of the elementary school district as described in Section 37106 and residing on a military reservation of the United States in any classes whatever other than classes in grades 9 through 12 of the high school district or unified school district.

For the purposes of this section, the Superintendent of Public Instruction shall define the term "total current expense of education" and the term "actual expense of transportation."

37108. The county superintendent of schools shall transmit a copy of the certificate certifying the amount chargeable against any elementary school district under his jurisdiction not later than the

succeeding July 20th to the board of supervisors of each county within which any part of the elementary school district is located.

37109. If the elementary school district is located entirely within one county, the board of supervisors shall at the time and in the manner prescribed by Sections 14200 to 14203, inclusive, Sections 42200 to 42204, inclusive, Section 85112, Article 3 (commencing with Section 14240) of Chapter 2 of Part 9, Article 2 (commencing with Section 42610) of Chapter 9 of Part 24, levy a tax on all taxable property in the elementary school district sufficient to raise the amount set forth in the certificate. If the elementary school district is located in more than one county, the tax shall be determined, levied, and collected at the time and in the manner prescribed by Sections 14200 to 14203, inclusive, Section 85112, Article 3 (commencing with Section 14240) of Chapter 2 of Part 9, , Article 1 (commencing with Section 42200) of Chapter 7, Part 24, Article 2 (commencing with Section 42610) of Chapter 9 of Part 24. The maximum rate of school district tax which may be levied pursuant to this section for any high school district or unified school district in any school year on each one hundred dollars (\$100) of assessed valuation within the elementary school district shall be seventy-five cents (\$0.75) if the average daily attendance of high school pupils living within the elementary school district and attending a high school in such high school district or unified school district during the preceding school year did not exceed 15.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

37109 If the elementary school district is located entirely within one county, the board of supervisors shall at the time and in the manner prescribed by Sections 14200 to 14203, inclusive, Sections 42200 to 42204, inclusive, Section 85112, Article 3 (commencing with Section 14240) of Chapter 2 of Part 9 of Division 1 of Title 1, Article 2 (commencing with Section 42610) of Chapter 9 of Part 24, of this division levy a tax on all taxable property in the elementary school district sufficient to raise the amount set forth in the certificate. If the elementary school district is located in more than one county, the tax shall be determined, levied, and collected at the time and in the manner prescribed by Sections 14200 to 14203, inclusive, Section 85112, Article 3 (commencing with Section 14240) of Chapter 2 of Part 9, of Division 1, Title 1, Article 1 (commencing with Section 42200) of Chapter 7, Article 2 (commencing with Section 42610) of Chapter 9 of Part 24, of this division. The maximum rate of school district tax which may be levied pursuant to this section for any high school district or unified school district in any school year on each one hundred dollars (\$100) of assessed valuation within the elementary school district shall be seventy-five cents (\$0.75) if the average daily attendance of high school pupils living within the elementary school district and attending a high school in such high school district or unified school district during the preceding school year did not exceed 15.

37110. The receipts of the tax shall be credited by the county treasurer of each county to the high school district or unified school district, except that if the county superintendent of schools of another county has jurisdiction over the high school district or unified school district, the county auditor of each county in which any portion of the tax is collected shall determine the amount of the receipts of the tax and shall direct the county treasurer of his county to transmit the amount to the county treasurer of the county of

which the superintendent of schools has jurisdiction, who shall credit the amount to the high school district or unified school district. The county treasurer of any county crediting the receipts of the tax to a high school district or unified school district shall notify the county superintendent of schools and county auditor of the county and the governing board of the high school district or unified school district of the fact, naming the amount credited.

37111. The county superintendent of schools shall pay to each high school district and unified school district from the unapportioned county high school fund under his jurisdiction, the amount chargeable to the fund as shown by the certificate of the governing board of the high school district or unified school district.

37112. This section applies to any elementary school district wholly included in a unified school district or a high school district, including a union high school district, joint union high school district, or county high school district, and which inclusion is effective for all purposes on or after July 1, 1956, and which elementary school district is required, pursuant to this article, to pay, during the first fiscal year commencing on the date inclusion is effective for all purposes, to the unified district or high school district in which it is included two hundred dollars (\$200) for each unit of average daily attendance for use of buildings and equipment as part of the tuition charge on account of persons residing in the elementary district who, during the preceding fiscal year, attended high school in the high school district or unified district in which such elementary district is included.

Notwithstanding other provisions of law, such elementary district shall not be liable for the payment of such two hundred dollars (\$200) a unit of average daily attendance if, prior to the date the inclusion is effective for all purposes, the elementary district assumes liability for the outstanding bonded indebtedness of the high school district, if it is included in a high school district, or for the outstanding bonded indebtedness of the unified district for high school and community college purposes, if the elementary district is included in a unified district.

For the purposes of this section, the county superintendent of schools shall determine, pursuant to Section 15106, the amount of outstanding indebtedness of a unified school district issued for high school and community college purposes.

Liability for such outstanding bonded indebtedness may be assumed at any election held for such purpose in accordance with law except that, if the elementary district is included in a unified school district, at the request of the governing board of such elementary district, the ballot shall contain, in addition to other required provisions, the words "For assumption of liability of outstanding bonded indebtedness of \_\_\_\_\_ District issued for high school purposes and community college purposes [if there is no such indebtedness for community college purposes the reference to community college purposes shall be deleted]—Yes" and "For

assumption of liability for outstanding bonded indebtedness of \_\_\_\_\_ District, issued for high school purposes and community college purposes [if there is no such indebtedness for community college purposes, the reference to community college purposes shall be deleted]—No.”

37113. The governing board of every district maintaining a high school shall, subject to space being available, admit pupils regularly enrolled in nonpublic schools to enroll in vocational and shop classes and in classes relating to the natural and physical sciences.

The attendance for each pupil so enrolled shall be credited to the district on the same proportion as the number of minutes of the pupils' attendance bears to the minimum schoolday.

The attendance of such pupils shall be computed by dividing the total number of minutes of actual attendance by 240. Such attendance shall be included in the computation of apportionments to the district from the State School Fund.

## CHAPTER 2. SCHOOL CALENDAR

### Article 1. Generally

37200. The school year begins on the first day of July and ends on the last day of June.

37201. (a) A school month is 20 days or four weeks of five days each, including legal holidays; provided, however, that for the purposes of counting attendance only in providing for a school calendar the Christmas vacation period, or any portion thereof, may be excluded by the school district in the definition of a school month.

(b) The provisions of subdivision (a) of this section are limited to defining a school month for attendance counting purposes only. A school month for employee pay purposes may be designated by the governing board to begin on any day of the week.

37202. Except where a school has been closed by order of a city or a county board of health, or of the State Board of Health, on account of contagious disease, or where the school has been closed on account of fire, flood, or other public disaster, the governing board of any school district shall maintain all of the elementary day schools established by it for an equal length of time during the school year, all of the day high schools established by it for an equal length of time during the school year.

37203. When it is necessary for the convenience of the residents of any district that the school be maintained a part of the year in one portion of the district, and a part of the year in another portion of the district, the aggregate of the time the school is maintained in the different portions of the district shall be the time for which a school has been maintained in the district during a school year.

## Article 2. School Closing—Agriculture

37210. During the continuance of a state of war between the United States and any foreign power, the Superintendent of Public Instruction, with the approval of the Governor, may, whenever in his opinion it is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the state, make an order closing, for such time as may be specified, any or all educational institutions supported wholly or in part by the state, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such educational institutions, or any grade or class thereof, during the continuance of a state of war.

37211. The annual school term shall not be reduced to less than six months pursuant to this article.

37212. Whenever any educational institution is closed, or the opening is delayed pursuant to this article, the salary of any teacher regularly employed shall be paid according to any written contract between the governing board of the educational institution and the teacher, or, if there is no written contract, according to any salary schedule adopted by the board. If there is neither contract nor salary schedule, the total salary paid for any school year in which the order closing or postponing the opening of schools is made shall not be less than the salary paid by the governing board of the educational institution for similar services during the preceding school year.

37213. An order issued under this article may be made applicable to any district, city, city and county, county or any group thereof, as the Superintendent of Public Instruction may determine and specify, and may be altered, amended, or rescinded from time to time.

37214. Nothing contained in this article shall in any manner affect the amount of money apportioned to any school district during any school year.

## Article 3. Saturdays and Holidays

37220. Except as otherwise provided the public schools shall continue in session or close on specified holidays as follows:

(a) The public schools shall close on January 1st, February 12th known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4th, the first Monday in September known as "Labor Day," September 9th known as "Admission Day," November 11th known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," and December 25th.

(b) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the public schools shall close on the day. If the Governor does not provide whether the public schools shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all

other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(c) The public schools shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(d) The public schools shall continue in session on all legal holidays other than those designated by or pursuant to this section and shall hold proper exercises commemorating the day.

(e) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(f) When any of the holidays on which the schools would be closed fall on Saturday, the public schools shall close on the preceding Friday, and such Friday shall be declared a state holiday.

(g) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(h) Nothing in this section is to be interpreted as authorizing a school district governing board to maintain schools in its district for a lesser number of days during the school year than the minimum established by law.

37221. (a) Notwithstanding any other provision of Sections 37220 to 37231, inclusive, whenever the Governor appoints any other day as a holiday and does not provide for the closing of the public schools, but such public schools do close, such closing shall be deemed a closing for a holiday declared by the governing board pursuant to the provisions of Section 37222.

(b) All certificated employees shall be deemed to have served the public schools on holidays appointed by the Governor during the calendar year of 1969.

All payments to certificated employees of the public schools for the holidays appointed by the Governor heretofore made during the calendar year 1969, shall be deemed to have been earned and the payments therefore are validated, and any certificated employee of the public schools shall be granted and paid for such holidays appointed by the Governor during the calendar year 1969 as provided for in Section 45041, if the appointed holiday occurred during the school term. In the event the holiday occurred during summer school, the certificated employee shall be paid for the appointed holiday in an amount such certificated employee would have received had he served on such holiday, which amount shall be determined in accordance with the rate of pay he is receiving pursuant to Section 45049.

(c) All classified employees shall be deemed to have served the public schools on holidays appointed by the Governor during the calendar year of 1969.

All payments to classified employees of the public schools for the holidays appointed by the Governor heretofore made during the calendar year 1969, shall be deemed to have been earned and the payments therefore are validated. Any school district which closed schools during calendar year 1969 for holidays appointed by the Governor but did not pay classified employees for those holidays shall do so, and employee entitlement shall be established under Section 44805.

37222. Notwithstanding any other provision of Sections 37220 to 37231, inclusive, and Section 52370, the governing board of any school district may declare a holiday in the public schools under its jurisdiction when good reason exists.

37223. All public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln and George Washington on February 12th and February 22nd, respectively, or on the day in which school is in session next preceding, if the specified day is a holiday.

37224. All public schools and educational institutions shall include in the schoolwork on or near the anniversary of the adoption of the Constitution of the United States exercises and instruction for pupils suitable to their ages in the purpose, meaning, and importance of the Constitution of the United States, including the Bill of Rights.

37225. March 7th of each year, the anniversary of the birthday of Luther Burbank, is set apart and designated Conservation, Bird, and Arbor Day.

All public schools and educational institutions shall observe Conservation, Bird, and Arbor Day not as a holiday, but by including in the schoolwork of the day, suitable exercises having for their object instruction as to the economic value of birds and trees, and the promotion of a spirit of protection toward them, and as to the economic value of natural resources, and the desirability of their conservation.

37226. February 15th of each year, the anniversary of the birthday of Susan B. Anthony, is designated and set apart as Susan B. Anthony Day.

All public schools and educational institutions shall observe this day with suitable exercises, directing attention to the development of the political and economic status of women in the United States, through the efforts of Susan B. Anthony.

37227. March 5th of each year, the anniversary of the death of Crispus Attucks, the first black American martyr of the Boston Massacre, is designated and set apart as Black American Day to direct attention to the development of black people in the United States of America.

All public schools and educational institutions shall observe this day with suitable exercises.

37227.5. All public schools and educational institutions throughout the state shall, on January 15th of each year, the anniversary of the birth of Dr. Martin Luther King, Jr., hold suitable

exercises commemorating, and directing attention to the history of, the civil rights movement in the United States, and particularly the role therein of Dr. Martin Luther King, Jr.

37228. The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.

Such classes may include, but are not limited to, continuation classes, and the programs of a regional occupational center or regional occupational program.

Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for such pupil per week.

Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil.

Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday-through-Friday school week.

The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 52200, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

37229. The governing board of any school district maintaining a high school or high schools, a county superintendent of schools, the California Youth Authority, and the State Department of Education authorized to maintain automobile driver training classes may maintain such classes on Saturday, Sunday, and during summer, Christmas, and Easter vacations when schools are not in session.

37230. During any national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, upon a finding by the Department of Employment Development that spoilage of a perishable crop will result because of a critical shortage of farm labor the governing board of a school district in which such crop is located may maintain the schools of the district on Saturdays, the first day of January, the 12th day of February, the third Monday of February, the last Monday of May, and the fourth Monday in October, in order to make pupils of the district available for the harvesting of crops without undue reduction in the number of days the schools of the district are maintained.

Nothing in this section shall permit or allow any student under the age of fourteen (14) to harvest such crops nor shall any student be permitted or allowed to use or to be in a position to use any dangerous equipment.

37231. Whenever climatic conditions of a school district are such as to render it necessary that the schools be closed as early in the year as possible or opened as late in the year as possible, the governing

board of the school district may maintain schools and classes on any days other than Saturday, Sunday, the 25th day of December, the first day of January, the fourth day of July, and any day appointed by the President or the Governor for a public thanksgiving.

When classes are maintained on holidays pursuant to this section, proper exercises shall be held commemorating the day.

37232. Notwithstanding any other provisions of this article, the governing board of any school district providing, or any county superintendent of schools providing by agreement with the governing board of one or more school districts, programs and classes in outdoor science education and conservation education pursuant to Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 of Division 1, Title 1, may maintain the programs and classes in outdoor science education and conservation education (a) on the fourth day of July when it does not fall on either a Saturday or a Sunday or (b) when it falls on either a Saturday or a Sunday, on the respective Friday or Monday which would otherwise, pursuant to subdivision (f) or (e), respectively, of Section 37220, be a holiday on which the public schools would be required to be closed.

Credit may be granted for attendance at programs and classes authorized by this section only for those pupils attending the program.

#### Article 4. Summer School

37250. The governing board of a district maintaining one or more high schools may maintain a summer school at any of such high schools during the period between the close of one academic year and the beginning of the succeeding academic year in accordance with rules and regulations of the State Board of Education and with the prior written approval of the Superintendent of Public Instruction.

The term "academic year" as used in this section means that portion of the school year during which the regular day high school is maintained, which period must include not less than the number of days of teaching required to entitle the district to apportionments of state funds.

### CHAPTER 3. YEAR-ROUND SCHOOL OPERATION

#### Article 1. General Provisions

37400. It is the intent and purpose of the Legislature in enacting this chapter to authorize the establishment of a five-year experimental program in the year-round school operation by two or more school districts selected by the Superintendent of Public Instruction. This five-year experimental program, though limited in scope, has an essential statewide general purpose in that it shall serve to provide the Legislature and the various state and local

governmental agencies involved in administration of the public school system with information and experience concerning the problems involved in providing for year-round operation of public schools throughout the state, and the feasibility thereof. It will also provide valuable information concerning the public response which may be accorded such programs, and the efficacy of such programs in accelerating the completion of the course of instruction by the pupils.

The Legislature is especially concerned and aware of the mounting costs of acquisition and construction of school sites and facilities, and is, therefore, desirous of determining whether those fiscal burdens may be reduced by increased utilization of existing plants and facilities.

The Legislature is also interested in determining whether the replacement of the present system of lengthy summer vacations with shorter quarterly vacation periods will result in a diminution of the student's vacation "learning loss."

This chapter shall be liberally construed to permit the accomplishment of these ends and to facilitate the complete evaluation of the school operations to enable the Legislature to determine what administrative, social, and other problems are presented thereby, and whether the year-round school operation may feasibly be put into operation on a broader scale throughout the state.

## Article 2. Experimental Program

37410. The Superintendent of Public Instruction shall authorize a five-year experimental program in the year-round school operation by two or more school districts, selected by the Superintendent of Public Instruction. The program may be established either in one or more of the schools within each of the selected districts or in all grade levels throughout the entire district, or both, as determined by the Superintendent of Public Instruction. The experimental programs shall commence during the 1972-73 school year, and terminate during the 1976-77 school year.

The program shall be conducted pursuant to the provisions of this chapter, and the approval for participation in the program by the Superintendent of Public Instruction shall be based upon a program proposal and year-round operation budget submitted by the governing boards of the participating school districts.

37411. The Superintendent of Public Instruction shall adopt all rules and regulations prescribing necessary standards and making provision for all other matters necessary for the effective administration of this chapter.

37412. The Superintendent of Public Instruction, notwithstanding any provisions of law to the contrary, shall have the power to require the submission of such reports and information, and to take such other actions as are reasonably necessary, to effectuate the purposes of this chapter.

## Article 3. Elements

37420. The year-round programs established pursuant to this chapter shall involve the conduct of school operations throughout a 12-month academic year. The academic year and academic quarters may be established without reference to the school year as defined in Section 37200. Regular schools and classes shall be conducted for a total of no fewer than 175 nor more than 200 days during the academic year.

37421. The provisions of Article 1 (commencing with Section 48200), Articles 3 through 6, inclusive (commencing with Section 48220), of Chapter 2 of Part 27, of Division 4 of this title, and all other laws relating to compulsory full-time education and the enrollment and attendance of pupils in the kindergarten, elementary, and secondary grades shall be applicable with respect to the regular schooldays prescribed for the entire academic year and for each academic quarter thereof established for the school at which a program pursuant to this chapter is conducted, and to the attendance area established for such school; subject to the power of the governing board to permit individual pupils to attend schools of the district maintained in other attendance areas. The governing board shall exempt from the year-round program any pupil whose parent or guardian requests such exemption.

37422. The courses of instruction offered at a school maintained pursuant to this chapter shall meet all applicable requirements of law, including the requirements prescribed by or pursuant to Sections 51550, 51551, 51820, Chapter 2 (commencing with Section 51200) of Part 28, of Division 4 of this title relating to physical education. For such purposes the instructional program shall be designed to provide at least the overall equivalent in instruction in each course of study required by law to be provided in kindergarten and grades 1 to 12, inclusive, upon a pupil's completion of the work prescribed for any particular grade.

37423. The governing board of each selected school district shall prescribe a separate salary schedule for the certificated employees of the district who are employed at a school maintained pursuant to this chapter, and who, because of such employment, will be engaged in rendering services for the district for a greater number of total days during the academic year than would be the case for a regular academic year.

## Article 4. Financial Support

37430. Each school district maintaining a continuous school program in any school within the district pursuant to this chapter shall be entitled to receive the same support, but not more support, from the State School Fund due to the average daily attendance at

such school that it would have received if the school had been operating under the provisions of law relating to the regular school year, including summer school.

37431. The Superintendent of Public Instruction shall prescribe an appropriate procedure for the computation of allowances, apportionments, and disbursements from the State School Fund which are to be made to any school district maintaining a continuous school program pursuant to this chapter for any one or more of the purposes specified in Sections 41304 and 41305 for the average daily attendance at any school operating such a program.

37432. The allowances, disbursements, and apportionments under this article shall be made with respect to any school district maintaining a continuous school program pursuant to this chapter in accordance with the law relating to allowances, disbursements, and apportionments, to the extent possible.

37433. The Superintendent of Public Instruction may provide for the actual disbursement of the apportionments to the school district maintaining the continuous school program pursuant to this chapter at times other than as specified in Article 3 (commencing with Section 41330) of Chapter 3 of Part 2, of this division. In no event, however, shall the school district receive apportionments in a total amount in excess of the amount determined pursuant to this article.

#### CHAPTER 4. YEAR-ROUND ELEMENTARY SCHOOL

##### Article 1. General Provisions

37500. It is the intent and purpose of the Legislature, by the provisions of this chapter, to authorize the establishment of an experimental four-quarter year-round elementary school program on a mandatory attendance basis at one elementary school maintained by a unified school district which has a current average daily attendance of not less than 25,000 nor more than 35,000. The program should enable the adoption of innovative instructional systems and techniques including special concentration upon critical elements of the required curricula over the longer academic year, permit maximum utilization of school plant, facilities and equipment, permit closer coordination of the elementary school instructional operations with the teacher-training operations of many institutions of higher education, permit the most efficient utilization of teachers' specializations, effect the replacement of the present system of lengthy summer vacations with shorter quarterly vacation periods with resultant diminution of pupils' vacation "learning loss," and afford numerous related benefits. This chapter shall be liberally construed to permit the accomplishment of these ends and to facilitate the complete evaluation of the school operations to enable the Legislature to determine what administrative, social, and other problems are presented thereby, and whether the same may feasibly be put into operation on a

broader scale throughout the state.

37501. The Superintendent of Public Instruction may approve the establishment of a year-round school program in an elementary school maintained by a unified school district for the education of kindergarten and grades 1 to 6, inclusive. The program shall be conducted pursuant to the provisions of this chapter, and the approval shall be based upon a program proposal submitted by the governing board of the school district demonstrating that the same shall be so conducted.

37502. A year-round elementary school program established pursuant to this chapter shall be of an experimental or pilot program nature and shall have a duration of seven full academic years, as established by the governing board of the district for purposes of the program.

37503. The State Board of Education shall adopt all rules and regulations prescribing necessary standards and making provision for all other matters necessary for the effective administration of this chapter.

## Article 2. Elements

37510. A year-round program established pursuant to this chapter shall involve the conduct of school operations throughout a 12-month academic year divided into four academic quarters. Such academic year and academic quarters may be established without reference to the school year as defined in Section 37200. Regular schools and classes shall be conducted for a total of no fewer than 195 nor more than 200 days during such academic year, and each quarter shall be divided into approximately 50 regular schooldays.

37511. The provisions of Article 1 (commencing with Section 48200) and Articles 3 to 6 inclusive (commencing with Section 48220) of Chapter 2 of Part 27 of Division 4 of this title, and all other laws relating to compulsory full-time education and the enrollment and attendance of pupils in the kindergarten and elementary grades shall be applicable with respect to the regular schooldays prescribed for the entire academic year and for each academic quarter thereof established for the school at which a program pursuant to this chapter is conducted, and to the attendance area established for such school; subject to the power of the governing board to permit individual pupils to attend schools maintained in other attendance areas. The governing board shall exempt from the year-round program any pupil whose parent or guardian requests such exemption and shall provide transportation to schools in other attendance areas for such pupils.

37512. The courses of instruction offered at a school maintained pursuant to this article shall meet all applicable requirements of law, except that the operations of the school shall be exempt from any requirements prescribed by or pursuant to law fixing a minimum time to be devoted to particular courses of study during any day,

week, or other period of lesser duration than a school year, other than the requirements relating to physical education. For such purposes the instructional program shall be designed to provide at least the overall equivalent in instruction in each course of study required by law to be provided in kindergarten and grades 1 to 6, inclusive, upon a pupil's completion of the work prescribed for any particular grade.

37513. The governing board of a school district shall prescribe a separate salary schedule for the certificated and classified employees of the district who are employed at an elementary school maintained pursuant to this chapter, and who, because of such employment, will be engaged in rendering services for the district for a greater number of total days during the academic year than would be the case for a regular academic year.

### Article 3. Finances

37520. A school district maintaining an elementary school pursuant to this chapter, shall be entitled to additional support from the State School Fund on account of the average daily attendance in regular schools and classes in kindergarten and grades 1 to 6, inclusive, of pupils attending the school. The Superintendent of Public Instruction shall prescribe an appropriate procedure under which allowances are to be computed and apportionments and disbursements are to be made to the district for any one or more of the purposes specified in Sections 41300 and 41301 for the average daily attendance in kindergarten and grades 1 to 6, inclusive, at such school. The computation of the allowances may be based upon rates reflecting the difference in the length of the academic year established pursuant to this article and the minimum number of days for a school year otherwise prescribed by law for purposes of eligibility for support from the State School Fund. Any additional amounts from the State School Fund to which the district is entitled may be included in allowances, apportionments and disbursements made for any fiscal year during all or part of which the school is maintained pursuant to this chapter by the district.

37521. The Superintendent of Public Instruction, notwithstanding any provisions of law to the contrary, shall have the power to require the submission of such reports and information, and to take such other actions as are reasonably necessary to effectuate the purposes of this chapter.

### Article 4. Testing and Reports

37530. The governing board of the district maintaining an elementary school program pursuant to this chapter shall, under the direction of the Superintendent of Public Instruction, conduct a comprehensive testing program in kindergarten and grades 1 to 6, inclusive, to be directed primarily to ascertaining whether achievement levels of the pupils in attendance at the school involved

are raised by the year-round instructional program, as compared to pupils similarly situated and in attendance at the regularly constituted schools of the district and throughout the state. For such purposes the testing program shall, at least, measure the level of accomplishment of the pupils at the commencement of each academic year, and at the end of each academic year.

37531. The governing board of the school district shall keep a continuous record of the progress of each pupil, and within 30 calendar days after the commencement of the regular session of the Legislature convened following the expiration of the third, fifth, and seventh academic years during which an educational program established pursuant to this chapter is in operation at a school shall, acting through and in conjunction with the Department of Education, submit to the Legislature a comprehensive report concerning the program. The report shall contain information concerning the results of the testing program conducted pursuant to Section 37530, the administrative and fiscal problems connected with the program, the impact of the program upon the community and its acceptance by citizens, parents, and taxpayers, and all other relevant matters.

## CHAPTER 5. CONTINUOUS SCHOOL PROGRAMS

### Article 1. General Provisions

37600. It is the intent and purpose of the Legislature in enacting this chapter to authorize public school districts of any type or class to establish, maintain, and operate their educational program under a continuous school program, to be conducted throughout the entire school year.

The Legislature is especially concerned and aware of the mounting costs of acquisition and construction of school sites and facilities, and is, therefore, desirous of providing a procedure whereby those fiscal burdens may be reduced by increased utilization of existing plants and facilities.

The Legislature is also interested in providing for the replacement of the present system of lengthy summer vacations with shorter periodic vacation periods, which will result in a reduction of the student's summer vacation "learning loss."

### Article 2. Establishment and Maintenance

37610. The governing board of any school district may, after notification to the Superintendent of Public Instruction, establish and operate in one or more of the schools within the district, or in all schools within the district, a continuous school program pursuant to the provisions of this chapter.

37611. Whenever the governing board of any school district, pursuant to Section 37610, determines to operate one or more schools

of the district on a continuous school program in such a manner as to require any pupil to enroll in a continuous school program, it shall publish, not later than November 1st of the school year preceding the commencement of such a program, its intention to operate a continuous school program in such a manner as to require any pupil to enroll in a continuous school program in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient.

37612. If after notice of intention to establish and operate a continuous school program in such a manner as to require any pupil to enroll in a continuous school program has been given, a petition signed by 25 percent of the electors of the district may be presented to the county superintendent of schools requesting that the school district not establish such a program. Such petition shall be presented no later than December 10th of the year in which the notice is given.

The county superintendent of schools shall examine the petition and, if he finds it to be sufficient and signed as required by law, order a ballot proposition, as provided by Section 37614, to be placed upon the ballot of the appropriate election as provided in Section 37613.

The governing board of the school district may request that an election be called and conducted irrespective of whether or not a petition is presented.

37613. An election ordered or requested to be held pursuant to Section 37612 may be consolidated with the next districtwide election held 80 or more days after the order or request for an election is made or the county superintendent of schools may order a special election to be held at least 80 days after the election is ordered or requested.

37614. (a) The ballot proposition used in an election called pursuant to Section 37613 shall contain the words "For the continuous school program of the (name of district) District to be operated in such a manner as to require any pupil to enroll in a continuous school program" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

(b) If a majority of those voting for the ballot proposition, as provided by subdivision (a), at the election vote "yes" then the school district shall be permitted to commence the continuous school program so designated on the ballot and to continue operating any such program in the district until all such programs are terminated.

(c) If a majority of those voting for the ballot proposition, as provided by subdivision (a), at the election vote "no" then the school district shall not be permitted to commence the continuous school program so designated on the ballot.

37615. If a continuous school program operated in such a manner as to require any pupil to enroll in the program is terminated by the governing board or prohibited pursuant to subdivision (c) of Section 37614, the governing board shall not determine to operate one or more schools of the district on a continuous school program in such a manner as to require any pupil to enroll in a continuous school program for at least two years following termination or election.

37616. Prior to implementing a continuous school program in any school of the district, the school district governing board shall consult in good faith in an effort to reach agreement with the certificated and classified employees of the school, with the parents of pupils who would be affected by the change, and with the community at large. Such consultation shall include at least one public hearing for which the board has given adequate notice to the employees and to the parents of pupils affected.

In school districts where a continuous school program is implemented in fewer than all of the schools maintained by the school district, the governing board of such a school district shall make every reasonable effort to assign certificated employees who prefer the regular school schedule to schools of the same level retaining the regular school schedule.

37617. The governing board of any school district operating pursuant to the provisions of this chapter shall divide the students of each selected school into as many groups as necessary to adequately accommodate a continuous school program so established and conducted. Students of the same family shall be placed in the same group unless one or more of such students is enrolled in a special education class or unless the parent or guardian of such students requests that the students be placed in different groups.

37618. The governing board of any school district operating pursuant to the provisions of this chapter shall establish a school calendar whereby the teaching sessions and vacation period during the school year are on a rotating basis.

37619. Each selected school shall be closed for all students and employees on regular school holidays specified in Section 52720, Article 3 (commencing with Section 37220) of Chapter 2 of this part.

37620. The teaching sessions and vacation periods established pursuant to Section 37618 shall be established without reference to the school year as defined in Section 37200. The schools and classes shall be conducted for a total of no fewer than 175 days during the academic year.

### Article 3. Elements

37630. The provisions of Article 1 (commencing with Section 48200), Article 3 (commencing with Section 48220) to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 of Division 4 of this title, and all other laws, relating to compulsory full-time education and the enrollment and attendance of pupils in the

kindergarten, elementary, and secondary grades shall be applicable with respect to the regular schooldays prescribed for the entire academic year established for the school at which a program pursuant to this chapter is conducted, and to the attendance area established for such school.

37631. The courses of instruction offered at a school maintained pursuant to this chapter shall meet all applicable requirements of law, including the requirements prescribed by or pursuant to Sections 51550, 51551, and 51820, and Chapter 2 (commencing with Section 51200) of Part 28 of Division 4 of this title relating to physical education. For such purposes the instructional program shall be designed to provide at least the overall equivalent in instruction in each course of study required by law to be provided in kindergarten and grades 1 to 12, inclusive, upon a pupil's completion of the work prescribed for any particular grade.

37632. The governing board of any school district operating the continuous school program pursuant to this chapter shall prescribe a separate salary schedule for the certificated employees of the district who are employed at any school maintaining the continuous school program pursuant to this chapter, and who, because of such employment, will be engaged in rendering services for the district for a greater number of total days during the academic year than would be the case for a regular academic year.

#### Article 4. Finances

37640. Each school district maintaining a continuous school program in any school within the district pursuant to this chapter shall be entitled to receive the same support, but not more support, from the State School Fund due to the average daily attendance at such school that it would have received if the school had been operating under the provisions of law relating to the regular school year, including summer school.

37641. The Superintendent of Public Instruction shall prescribe an appropriate procedure for the computation of allowances, apportionments, and disbursements from the State School Fund which are to be made to any school district maintaining a continuous school program pursuant to this chapter for any one or more of the purposes specified in Sections 41300 and 41301 for the average daily attendance at any school operating such a program.

37642. The allowances, disbursements, and apportionments under this article shall be made with respect to any school district maintaining a continuous school program pursuant to this chapter in accordance with the provisions of law relating to such allowances, disbursements, and apportionments, to the extent possible.

37643. The Superintendent of Public Instruction may provide for the actual disbursement of the apportionments to the school district maintaining the continuous school program pursuant to this chapter at times other than as specified in Article 3 (commencing with

Section 41330) of Chapter 3 of Part 24 of this division. In no event, however, shall the school district receive apportionments in a total amount in excess of the amount determined pursuant to this article.

37644. Any school district with an average daily attendance of more than 500 which, prior to July 1, 1979, converts one or more schools to a continuous school program pursuant to this chapter, shall, upon the approval of the Superintendent of Public Instruction, receive from funds appropriated for this purpose, a one-time grant not to exceed twenty-five thousand dollars (\$25,000). School districts already operating continuous school programs on effective date of this section shall be eligible for the grant.

Any school district with an average daily attendance of 500 or less, which, prior to July 1, 1979, converts one or more schools to a continuous school program pursuant to this chapter, shall, upon the approval of the Superintendent of Public Instruction, receive from funds appropriated for this purpose, a one-time grant not to exceed five thousand dollars (\$5,000).

37645. The Superintendent of Public Instruction may require the submission of such reports and information as designated by the Department of Education to properly evaluate all programs established pursuant to this chapter.

The Superintendent of Public Instruction shall compile and disseminate evaluations of the instructional and financial aspects of these programs.

## PART 23. SCHOOL FACILITIES

### CHAPTER 1. SCHOOL SITES

#### Article 1. General Provisions

39000. The State Department of Education shall establish standards for school sites.

39001. The governing board of any school district may, and when so directed by a vote of the voters within the district shall, purchase or improve school lands.

39002. The governing board of a school district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 39141 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. The investigation shall include such geological and soil engineering studies by competent personnel as are needed to provide an assessment of the nature of the site and potential for earthquake damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological characteristics are such that the construction effort

required to make the site safe for occupancy is economically unfeasible. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

No school building shall be constructed or situated on the trace of an active geological fault. For purposes of this section, an active geological fault is defined as one along which surface rupture can be reasonably expected to occur within the life of the building.

Similar geological and soil engineering investigations shall be made as deemed necessary by the Department of General Services for the construction of any school building as defined in Section 39141 or, if the estimated cost exceeds ten thousand dollars (\$10,000), the reconstruction or alteration of or addition to any such school building for work which alters structural elements. No such study need be made if the site or sites under consideration have been the subject of adequate prior study.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services and the Department of Education pursuant to Article 3 (commencing with Section 39140) of Chapter 2 of this part. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

39003. The reconstruction of any school on all or a portion of a site which has been used for public school purposes uninterruptedly since prior to 1890 may be financed through the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972 (Chapter 19 (commencing with Section 17400) of Part 10 of Division 1 of Title 1), if the legal title to such site or a portion thereof is held either by: (a) a city school district, or (b) a charter city, and a city school district has obtained or is in the process of obtaining a lease of not less than 50 years on such site or portion thereof from the charter city.

39004. To promote the safety of pupils and comprehensive community planning the governing board of each school district before acquiring title to property for a new school site or for an addition to a present school site, shall give the planning commission having jurisdiction notice in writing of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report of the investigation and its recommendations concerning acquisition of the site.

The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, or for an addition to a present school site, the governing board of the school district shall not acquire title to the property until 30 days

after the commission's report is received.

39005. To promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites, the governing board of each school district, including districts governed by a city board of education if the proposed site is within two miles, measured by air line, of that point on an airport boundary which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new school site or for an addition to a present site, shall give the Department of Education notice in writing of the proposed acquisition and shall submit any information required by the Department of Education.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport boundary which is nearest the site, the Department of Education shall notify the Department of Aeronautics, in writing, of the proposed acquisition. The Department of Aeronautics shall make an investigation and report to the Department of Education within 25 days after receipt of the notice. If the Department of Aeronautics is no longer in operation, the Department of Education shall, in lieu of notifying the Department of Aeronautics, notify the Civil Aeronautics Authority or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the authority or other agency such information or assistance as it may desire to give.

The Department of Education shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the Department of Education has been received. If the report does not favor the acquisition of the property for a school site or an addition to a present school site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the school district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

39006. Notwithstanding the provisions of Section 39005, immediately after receiving notice of a proposed acquisition of property which is within two miles, measured by air line, of that point on an airport boundary which is nearest the site, the Department of Education shall notify the Department of Aeronautics, in writing, of the proposed acquisition. The Department of Aeronautics shall make an investigation and report to the Department of Education within 25 days after receipt of the notice. As part of such investigation the Department of Aeronautics shall give notice thereof to the owner and operator of such airport who shall be afforded the opportunity to comment upon the

proposed school site.

Notwithstanding the provisions of Section 39005, if the report of the Department of Education required by that section does not favor the acquisition of the property for a school site, or an addition to a present school site, the governing body shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice by publication in a newspaper of general circulation within the school district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

39007. If, with respect to a proposed site located within two miles of an operative airport runway, the report of the Department of Education submitted to a school district governing board under Section 39005 or Section 39006 does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Department of Aeronautics, no state agency or officer shall grant, apportion, or allow to such school district for expenditure in connection with that site, any state funds otherwise made available under any state law whatever for school site acquisition or school building construction, or for expansion of existing sites and buildings, and no funds of the school district or of the county in which the district lies shall be expended for such purposes; provided that the provisions of this section shall not be applicable to sites acquired prior to January 1, 1966, nor to any additions or extensions to such sites.

If the recommendation of the Department of Aeronautics is unfavorable, such recommendation shall not be overruled without the express approval of the Department of Education and the State Allocation Board.

39008. No action undertaken by the Department of Education or by any other state agency or by any political subdivision pursuant to this chapter, or in compliance with this chapter, shall be construed to affect any rights arising under the provisions of Section 19 of Article 1 of the California Constitution.

39009. The governing board of any school district may acquire and pay for an option upon a school site. The option agreement may provide that if the option is not exercised by the district during the period for which it is granted that, upon an additional payment by the district, made on or before the last day of such period, the option may be extended for a further period. Any such option agreement may contain provisions for additional successive renewals.

Before acquiring any such option the governing board shall comply with Sections 39004 and 39005.

39010. At any time after the appointment or election of the board of trustees of a union or joint union school district, and the naming of the school district, the board may secure an option to purchase land for school purposes and may call a bond election for any of the purposes for which elementary school district bonds may be issued.

The board may proceed thereafter in accordance with the provisions of this code governing the issuance of elementary school district bonds, with the same effect as though control of the property of the union or joint union district had already been vested in them.

39011. Where a city, district, or other political corporation or subdivision of the state is authorized by law to furnish sewerage, water, or other utility facilities to a school district and is not required to provide for the installation thereof to such school district at its own expense, it may enter into an agreement with such school district whereby the cost of installation will be paid by the school district under such terms as the parties may agree to, with reimbursement from charges made or to be made to other users of such facilities as may be agreed upon between the parties, save insofar as other provisions of law control the terms of such reimbursement. Any agreement made prior to September 11, 1957, between a school district and any of the aforesaid entities, which is otherwise in accordance with this section shall be deemed to be as valid and effective as if such agreement had been entered into subsequent to September 11, 1957.

The governing body of any entity mentioned in the preceding paragraph may by contract reimburse a school district for such portion of such utility facilities as it deems constructed for the benefit of or usable by persons outside of the school site, provided such facilities are dedicated by the school district to the public. Such contract shall provide that the governing body may collect from any person using such facilities, for the benefit of property not within the school site, a reasonable charge for such use. The term "person" herein shall have the same meaning as in Section 11545 of the Business and Professions Code.

39013. The governing board of a school district may acquire a site for a school building contiguous to the boundaries of the district and upon the acquisition of such site it shall become a part of the district. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it. The power of eminent domain may be used for the purposes of this section.

A school site is contiguous for the purpose of this section although separated from the boundaries of the district by a road, street, stream, or other natural or artificial barrier or right-of-way.

39014. The governing board of a school district which has been included in a school district unification proposal approved by the electors of the territory involved pursuant to Chapter 2 (commencing with Section 4206) of Part 3 of Division 1 of Title 1, may, prior to the time the new unified school district becomes

effective for all purposes, acquire a site for a school building at any place within the new unified school district, and upon the acquisition of such site it shall become a part of the district pending the date when the new unified school district becomes effective for all purposes. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it.

39015. In the event a school district heretofore or hereafter acquires a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, the school district shall be subject to nonuse payments, unless the State Allocation Board from time to time makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first such additional year shall be deemed to end not earlier than April 30, 1973.

The payments required shall be computed by the executive officer of the State Allocation Board and certified to the State Controller, and payments shall be equal to one one-hundredth ( $\frac{1}{100}$ ) of the original purchase price of the site modified by either a factor reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or such other factor which in the determination of the State Allocation Board is applicable to the site under consideration.

Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the school site for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 39360) of Chapter 3 of Part 24 of this division and has received no bids which in the judgment of the State Allocation Board reflect the fair market value of the property, the executive officer of the State Allocation Board shall not compute any nonuse payments for such site for a period of one year beyond such a determination.

39018. Any funds in the State School Site Utilization Fund, including interest, which are not subject to return to a school district pursuant to Section 39017 shall revert to the General Fund.

## CHAPTER 2. CONSTRUCTION OF SCHOOL BUILDINGS

## Article 1. Department of Education: Powers and Duties

39100. The Department of Education shall establish and make rules and regulations needed for the expeditious handling of the work required to carry out the purposes of this article.

39101. The Department of Education shall:

(a) Advise the governing board of each elementary, high school, and unified school district on the acquisition of new school sites, and after a review of available plots give the governing board of the district in writing a list of the approved locations in the order of their merit considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction and charge the governing board of the school district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for school buildings.

(c) Review all plans and specifications for buildings in every district required to submit plans and specifications therefor to it for approval. The department may, upon the request of the governing board of any other district, review plans and specifications for buildings in such district.

The department shall charge governing boards of school districts for the review of plans and specifications, a fee of one-twentieth of 1 percent of the estimated cost determined by the Division of Architecture. The minimum fee in any case shall be ten dollars (\$10).

(d) Approve plans and specifications submitted by governing boards of school districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make all necessary provisions by which governing boards of school districts, or architects engaged by them, may procure by purchase or otherwise, copies of standard specifications, plans, and building codes prepared by the department.

(f) Make, upon the request of the governing board of any school district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein, from the district.

(g) Employ experts, and clerical, and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

39102. All money collected by the Department of Education under the provisions of this article shall be available for the use of the department pursuant to appropriations for such use as may from

time to time be made by the Legislature.

## Article 2. Plans

39110. As used in Sections 39110 to 39116, inclusive, "school buildings" refers to only one-story schoolhouses of not more than nine classrooms.

39111. The Department of Education shall:

(a) Establish a pool of duplicate plans for school buildings appropriate for school districts in rural areas. The series shall be composed of plans designed to meet the requirements of school districts located in rural areas of varying characteristics. The plans may include landscape suggestions.

(b) Provide specifications for the design and construction of such school buildings.

39112. Any school district may request sets of such plans and specifications appropriate for use in constructing a school building of the type desired by the district. Such plans and specifications shall be furnished to the school district subject to the payment of the actual expense incurred by the Department of Education, but such expense shall not exceed more than 2 percent of the total cost of the project. Any payments received for such plans and specifications shall be paid into the State Treasury to the credit of the General Fund.

39113. The plans and specifications for any school building as defined in Section 39141, together with estimates of cost, shall be submitted by the board to the Department of General Services for approval.

39114. All provisions of Sections 39140 to 39155, inclusive, are made applicable to school buildings as defined in Section 39141 constructed from plans and specifications furnished under Sections 39110 to 39116, inclusive, except as otherwise provided in the latter sections.

39115. The district shall furnish its own architect or structural engineer, or both, for necessary structural engineering and supervision of construction.

39116. The governing board of a school district shall, before letting any contract for the construction of a school building as defined in Section 39141 according to such plans and specifications, file a set of the plans and specifications with the Department of General Services accompanied by a fee in the amount fixed by Section 39146.

39117. Except in cities having boards of education, the superintendent of schools of each county shall pass upon and approve or reject all plans for schoolhouses. To enable him to do so, the governing board, before adopting any plans for school buildings, shall submit the plans to him for his approval.

39118. The governing board of each elementary, high school, and unified school district, except districts governed by a city board of education, or any regional occupational center or program created

by or authorized to act by an agreement under joint exercise of power before letting any contract or contracts totaling seven thousand five hundred dollars (\$7,500) or more, for the erection of any new school building, or for any addition to, or alteration of, an existing school building, shall submit plans therefor to the State Department of Education, and obtain the written approval of the plans by the department. No contract for building made contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any school building in contravention of this section.

39119. Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 39148 shall provide that all plans, specifications and estimates prepared pursuant thereto shall be and remain the property of the school district.

39120. The governing board of any school district shall, upon completion of any school building let pursuant to Sections 39140 to 39155, inclusive, file with the Department of General Services on ozalid type reproducible duplicate set of architect plans for the new school building plant.

39121. The county superintendent of schools may appoint a director of school building planning, who shall be a person qualified by training, experience and demonstrated ability to supervise the building, construction and contracting business of the school districts of the county having an average daily attendance of less than 10,000. The director shall be responsible for the coordination of the building program of the school districts of the county having such average daily attendance and shall advise the governing boards and other employees of the districts with respect to the negotiation and performance of the school building construction contracts let by the governing boards of the school districts.

39122. The county superintendent of schools of two or more contiguous counties may cooperate with each other and to that end may enter into agreements with each other for the appointment of a joint director of school building planning, and may do all things necessary or convenient to aid and cooperate in carrying out the provisions of Sections 39121 to 39124, inclusive.

39123. Before letting any contract for the preparation of plans and specifications for any construction or alteration of any school building, the governing board of any school district having an average daily attendance of less than 10,000 shall consult the director of school building planning of the county and secure the benefit of his technical knowledge with respect to the negotiation and letting of any contract for the construction or alteration of a school building.

39124. If any school district having an average daily attendance of less than 10,000 receives a final apportionment of state school building aid funds under Sections 16000 to 16207, inclusive, of this code, the governing board of such school district shall consult the director of school building planning on all matters relating to the

construction of the project for which the apportionment was granted until final completion of the project.

### Article 3. Approvals

39140. The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds ten thousand dollars (\$10,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building regulations published in the State Building Standards Code, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 39640 and 39649.

39141. "School building" as used in this article means and includes any building used, or designed to be used, for elementary or secondary school purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof.

39141.3. Any school building, as defined in Section 39141, operated by a county official, board, or commission which on the effective date of this section is in violation of this article, where compliance therewith was otherwise required, may be continued in use as a school building after June 30, 1975, provided that no such building shall be operated after that date unless such county official, board, or commission requests and obtains from the State Allocation Board authority for use of such building for a specific period after such date.

Concurrent with such request such county official, board, or commission shall file with the State Allocation Board a statement or resolution declaring an intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement.

The State Allocation Board shall not authorize such county official, board, or commission to use such building after June 30, 1975, unless it has first determined that the affected authority has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and the contract has been let for any phase of, and work commenced on, such project.

In no event shall the State Allocation Board authorize the use of such unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever

occurs first.

39141.5. Where the primary use of either a building or complex within which such building is situated, operated by an official or board of a city, city and county or county, is for purposes other than educational, such as but not limited to correctional, forestry, or hospital purposes, such building shall not be considered to be a "school building" within the meaning of Section 39141 notwithstanding any educational use thereof incidental to such primary purpose.

39142. "Construction or alteration" as used in this article includes any construction, reconstruction, or alteration of, or addition to, any school building.

39143. The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds ten thousand dollars (\$10,000), the alteration of any school building. To enable it to do so, the governing board of each school district and any other school authority before adopting any plans for such school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article.

39144. Before letting any contract for any construction or alteration of any such school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall be first had and obtained.

39145. In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computations, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

39146. The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost, and such fee shall not exceed one-half of 1 percent of the estimated cost.

The minimum fee in any case shall be fifty dollars (\$50). If the actual cost exceeds the estimated cost by more than 10 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

39147. All fees shall be paid into the State Treasury and credited to the Division of Architecture Public Building Fund, which fund is continued in existence and is retitled the Architecture Public Building Fund, and are available without regard to fiscal years for the use of the Department of General Services, subject to approval of the Department of Finance, in carrying out the provisions of this article and Article 5 (commencing with Section 39190) of this chapter.

Adjustments in the amounts of the fees, as determined by the Department of General Services and approved by the Department of Finance, will be made within the limits set in Sections 39192 and 39146 in order to maintain a reasonable working balance in the fund.

39148. All plans, specifications, and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer, except that where plans, specifications, and estimates for alterations or repairs do not involve architectural or structural changes said plans, specifications, and estimates may be prepared and work of construction may be observed by a professional engineer duly qualified to perform such services and holding a valid certificate under Chapter 7 of Division 3 of the Business and Professions Code for performance of services in that branch of engineering in which said plans, specifications, and estimates and work of construction are applicable.

39149. As of January 1, 1976, the persons employed as inspectors of record to inspect the construction, reconstruction or alteration of any school building shall be either (a) persons who are registered as construction inspectors in the divisions in which they are to be used, as defined by Section 9101 of the Business and Professions Code or (b) persons who are regularly employed for building code enforcement by the local agency having responsibility for such inspection, and are qualified to perform such inspections under the civil service laws or regulations of such local agency.

Persons employed as assistants to inspectors of record shall be registered construction inspectors or shall be enrolled as inspectors-in-training in the divisions in which they are to be used, as defined by Section 9101.1 of the Business and Professions Code. This section shall not apply to any architect, structural engineer, civil engineer, land surveyor, mechanical engineer, engineering geologist, or electrical engineer, who holds a valid certificate of registration in this state, insofar as he is practicing within the provisions of the law under which he is registered. This section shall not apply to an inspector approved by the Office of Architecture and Construction and employed pursuant to a particular building contract prior to January 1, 1976, during the performance of that building contract.

39150. No contract for the construction or alteration of any school building, made or executed by the governing board of any school district or other public board, body, or officer otherwise vested with authority to make or execute such a contract, is valid, and no public money shall be paid for any work done under such a contract or for any labor or materials furnished in constructing or altering any such building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has first been had and obtained from the Department of General Services.

(Amended by Stats 1976, Ch 1011 )

## [ORIGINAL SECTION]

39150. No contract for the construction or alteration of any school building, made or executed by the governing board of any school district or other public board, body, or officer otherwise vested with authority to make or execute such a contract, is valid, and no public money shall be paid for any work done under such a contract or for any labor or materials furnished in constructing or altering any such building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has been first been had and obtained from the Department of General Services

39151. From time to time, as the work of construction or alteration progresses and whenever the Department of General Services requires, the licensed architect or structural engineer in charge of observation of construction or registered engineer in charge of observation of other work, the inspector on the work, and the contractor shall each make to the Department of General Services a report, duly verified by him, upon a form prescribed by the Department of General Services, based upon his own personal knowledge, indicating that the work during the period covered by the report has been performed and materials have been used and installed, in every material respect, in compliance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the Department of General Services.

The term "personal knowledge" as used in this section and as applied to the architect, and the registered engineer, means the personal knowledge which is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also which is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between the above-mentioned periodic visits of the architect or the registered engineer. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the inspector means the actual personal knowledge which is obtained from his personal continuous inspection of the work of construction in all stages of its progress at the site where he is responsible for inspection and, when work is carried out away from the site, that personal knowledge which is obtained from the reporting of others on the testing or inspection of materials and workmanship for compliance with plans, specifications or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the contractor means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

39152. The Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable effectually to carry out the provisions of this article.

39153. The State Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the pupils, the teachers, and the public. The school district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the architect or structural engineer as the board may direct, and be responsible to the governing board.

39154. Any person who violates any of the provisions of this article or makes any false statement in any verified report or affidavit required pursuant to this article is guilty of a felony.

39155. Upon written request by the governing board of any school district or upon written request by at least 10 percent of the parents having children enrolled as pupils in any school district as certified to by the county superintendent of schools, the Department of General Services shall make an examination and report on the structural condition of any public school building of the district, subject to the payment by the governing board of the actual expenses incurred by the Department of General Services. Payment of the expenses may be waived by the Department of General Services on recommendation of the State Superintendent of Public Instruction when it appears to him that the school district in which the public school building is located cannot afford to pay them.

39156. Any public school building which has been approved by the Department of General Services (formerly Division of Architecture) for occupancy shall be deemed to meet the local building requirements for use as a private school.

#### Article 4. Building Schoolhouses

39170. The governing board of any school district may, and when directed by a vote of the district shall, build and maintain a schoolhouse.

39172. The governing board of any school district, whenever in its judgment it is desirable to do so, may establish additional schools in the district.

39173. The governing board of any school district may purchase property and construct and equip buildings in an area after the legal action has been taken that will result in annexation of the area to the school district, but before the annexation has become effective.

## Article 5. Factory-Built School Buildings

39190. It is the intent of this article to provide an alternative procedure to Article 3 (commencing with Section 39140) for the construction and installation of factory-built school buildings not over 1,000 square feet in area designed or intended for use as school buildings. As used in this article, a "factory-built building" means any building designed or intended for use as a school building which is either wholly manufactured or is in substantial part manufactured at an offsite location in accordance with standards prescribed by the Department of General Services, to be assembled or erected on a school site. Any such building purchased or leased by a school district shall be deemed to be the construction or alteration of a school building as those terms are used in Article 2 (commencing with Section 39110) and Article 3 (commencing with Section 39140) of this chapter, and all of the provisions of each of those articles, not inconsistent with the provisions of this article, shall apply with respect to factory-built buildings designed or intended for use as school buildings.

39191. The Department of General Services shall adopt standards as to the safety of design and construction of factory-built buildings for use as school buildings, and shall prescribe procedures for the plans, specifications, methods of construction, and estimates of cost of a factory-built school building to be submitted to the department for approval as provided in Section 39192. Such standards shall comply with but not be limited by the provisions of Article 2 (commencing with Section 39110) and Article 3 (commencing with Section 39140) of this chapter.

39192. A manufacturer of factory-built buildings designed or intended for use as school buildings shall submit to the Department of General Services and the Department of Education for approval, its plans, specifications, methods of construction, and estimates of cost of such buildings. At the same time the manufacturer shall pay to the Department of General Services a deposit to be applied toward the actual expenses in an amount as determined by the Department of General Services based on the estimated cost of such factory-built buildings, but not exceeding 0.5 percent of such estimated cost. The minimum deposit in any case shall be fifty dollars (\$50). The manufacturer shall reimburse the Department of General Services and the Department of Education for the actual expenses incurred by those departments in the review of such plans and specifications.

All fees received by the Department of General Services pursuant to this article are subject to the provisions of Section 39147.

39193. All plans, specifications and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7

(commencing with Section 6700) of Division 3 of the Business and Professions Code, and the supervision of the work of construction in the factory shall be under the responsible charge of such an architect or structural engineer.

39194. The Department of General Services, in accordance with standards and procedures adopted pursuant to Section 39191, and as such standards and procedures may thereafter be modified, shall either approve or reject such plans, specifications, and methods of construction. Approval shall not be given unless such plans, specifications, and methods of construction are in accordance with standards adopted by the department pursuant to Section 39191. The department may establish procedures for the inspection of the facilities and manufacturing processes of a manufacturer to determine the manufacturer's ability to produce factory-built school buildings in accordance with the plans, specifications, and methods of construction which the manufacturer has submitted to the department. The Department of General Services shall notify the State Department of Education of its approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building.

39195. The Department of General Services shall provide for competent, adequate, and continuous inspection during construction in the factory to insure that all work has been performed and materials used and installed, in every particular, in accordance with the approved plans and specifications. The manufacturer shall reimburse the department for the costs incurred for such inspection as determined by the department.

39196. From time to time, as the work of construction in the factory progresses and whenever the Department of General Services requires, the certified architect or structural engineer in responsible charge of the supervision of the work of construction in the factory, the inspector on the work, and the manufacturer shall each make to the Department of General Services a report, duly verified by him, upon a form prescribed by the Department of General Services, showing, of his own personal knowledge, that the work during the period covered by the report has been performed, and materials used and installed, in every particular, in accordance with the approved plans and specification, setting forth such detailed statements of fact as are required by the Department of General Services.

39197. Upon the Department of General Services' approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building, a school district, whenever it is otherwise required by any of the provisions of Article 2 (commencing with Section 39110), or Article 3 (commencing with Section 39140) of this chapter to submit to the Department of General Services or to the State Department of Education the plans and specifications for the construction of a school building may, instead, include in its application for approval to each of such

departments a notification that it intends to utilize such factory-built school building. The plans and specifications for the factory-built building to be utilized shall be submitted with the application and notification for identification purposes. Before granting its approval for the use of such buildings, the Department of General Services shall insure that the plans, specifications, and methods of construction of such buildings have been approved and are in accordance with standards adopted by the department pursuant to Section 39191 which are in effect at the time such application for approval is passed upon by the department. Whenever a school district complies with the alternative procedure prescribed by this section it shall not be required to pay the filing fee prescribed by Sections 39116 and 39146, except that a fee shall be charged for onsite work pursuant to Section 39198. If the submitted plans and specifications have not been previously approved the application shall be rejected. In such case a new application together with required documents shall be filed for approval of plans and specifications by either the manufacturer pursuant to the provisions of Section 39192 or by the school district pursuant to the provisions of Article 3 (commencing with Section 39140) of this chapter.

39198. Whenever a school district has contracted for the purchase or lease of a factory-built school building and where such building is to be supported by foundations, underpinning, pedestals, or similar type elements which extend more than 18 inches above natural grade at any point, or on temporary blocks or jacks of any height, all the provisions of Article 3 (commencing with Section 39140) of this chapter shall apply to the design and construction of onsite work except that, for fee purposes, only the estimated cost of onsite work need be considered. The minimum amount in any case shall be fifty dollars (\$50).

39199. The provisions of Sections 39115, 39119, 39120, 39146, 39148, and 39151 shall not apply with respect to the manufacture, sale, or lease of factory-built school buildings if the provisions of this article are otherwise complied with.

39200. The provisions of Sections 39144, 39148, 39150, 39151, and 39153 shall not apply with respect to the design and construction of onsite work except where required by the provisions of Section 39198.

#### Article 6. Fitness for Occupancy

39210. The Legislature finds and declares as follows:

(a) By an urgency act (Stats. 1933, Ch. 59), the Legislature at the 1933 General Session established reasonable minimum standards for the design and construction of new school buildings, as now defined in Section 39141. Although it was not required that then existing school buildings incorporate these standards, it was intended by the Legislature that in the intervening years continuous progress would be made in the repair, reconstruction or replacement of such school buildings.

(b) Progress toward this end has been outstanding in some school districts. In other school districts the matter has been ignored, thus prolonging a dual level of safety for the schoolchildren of California.

(c) Recognizing that some school buildings are better preserved than others, that some are less hazardous than others, that some more nearly satisfy modern educational needs than others, but that the best of these buildings are at least 33 years old and approaching the end of their efficient service life, it is reasonable to expect that all of them will have been repaired, reconstructed or replaced by 1983, at which time the newest of them will be 50 years old.

39211. It is the intent of the Legislature to reexamine the progress under this article from time to time. To enable it to do so, and to expedite the provision of safe educational facilities for California schoolchildren, the Legislature intends that the governing board of each school district adopt a plan for the orderly repair, reconstruction, or replacement of school buildings not repaired, reconstructed, or replaced in accordance with this article.

39212. The governing board of any school district which has in use for school purposes any school buildings which were not constructed under approved plans and the supervision and inspection requirements of Article 3 (commencing with Section 39140) of this chapter shall have such buildings examined pursuant to this section and shall have completed on or before January 1, 1970, the examination, reporting and estimate requirements of this section and Section 39223.

Whenever an examination of the structural condition of any school building of a school district has been made by the Department of General Services, or by any licensed structural engineer or licensed architect for the governing board of the school district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law. The estimate shall be based on current costs and may include other costs to reflect modern educational needs. Also an estimate of the cost of replacement based on the standards established by the State Allocation Board for area per pupil and cost per square foot, shall be made and reported.

The report required by this section shall include a statement that each of the buildings examined is safe or unsafe for school use. For the purpose of this statement the sole consideration shall be protection of life and the prevention of personal injury at a level of

safety equivalent to that established by Article 3 (commencing with Section 39140) of this chapter and the rules and regulations adopted thereunder, disregarding, insofar as possible, such building damage not jeopardizing life which would be expected from one disturbance of nature of the intensity used for design purposes in said rules and regulations.

The governing board, utilizing the information acquired from the examination and report developed pursuant to this section, shall establish a system of priorities for the repair, reconstruction, or replacement of unsafe school buildings.

39213. (Repealed by Stats 1976, Ch. 1011.)

[ORIGINAL SECTION]

39213. Whenever an examination of the geological characteristics of the site on which any public school building constructed prior to 1957 is situated has been made at the request of the governing board by a licensed geologist prior to the effective date of the act which enacted this section, and the report shows that the school building is situated on the trace of an active geological fault along which it can reasonably be expected that surface rupture will occur within the life of such building, such building shall be deemed structurally unsafe for school use. Such building shall be subject to replacement at another location in accordance with the procedure provided for repair, reconstruction, or replacement in Section 39212 as though it had not been constructed in conformance with Article 3 (commencing with Section 39140) of this chapter.

This section shall remain in effect only until July 1, 1976, and as of that date is repealed.

39214. "School building" as used in this article excludes any building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and buildings utilized by adult schools for off-campus, voluntary adult education courses or registered apprentice courses.

"School building" as used in this article excludes any building owned or occupied by a unified school district, high school district, or a county superintendent of schools, and which on July 1, 1975, and continuously since then, was used exclusively for adult education purposes.

If any building so excluded was not constructed in accordance with Article 3 (commencing with Section 39140) of this chapter and was not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

39214. "School building" as used in this article excludes any building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and buildings utilized by adult schools or community colleges for off-campus, voluntary adult education courses or registered apprentice courses

If any building so excluded was not constructed in accordance with Article 3 (commencing with Section 39140) of this chapter and was not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place

on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety

39215. After securing the estimates, the governing board of the district shall, if the district has sufficient funds to its credit to permit the repairs, reconstruction, or replacement, and such funds do not represent the proceeds of a bond issue previously authorized by the electorate of the district for other purposes, immediately proceed in such manner as is authorized by law to secure the necessary authorization for the expenditure of the funds. If authorization to expend the funds is not required by law, the board shall within six months from the receipt of the report of the examination of the building or buildings initiate action for the repair, reconstruction, or replacement of the building or buildings.

39216. If the district does not have sufficient funds available to permit the governing board of the district to proceed with the repair, reconstruction, or replacement of the building or buildings, the governing board shall within 12 months after receiving the report of the examination of the building or buildings, call an election. At such election there shall be submitted to the qualified electors of the district either proposition (a) or (b), or both propositions (a) and (b), as determined by the governing board of the district, as follows:

(a) (1) Authorization of bonds of the district in an amount sufficient, as shown by the estimate, to provide funds for the repair, or reconstruction, of the building or buildings, in accordance with the governing board's plans; or

(2) Authorization of bonds of the district in an amount sufficient as shown by the estimate obtained by the district to construct new school facilities on the site of one or more of the unfit building or buildings, or on other sites, in accordance with the governing board's plan.

(b) Authorization of the increase of the maximum tax rate of the district for such length of time as will permit raising sufficient funds by district taxation for the repair, reconstruction, or replacement of the building in accordance with the governing board's plan.

In connection with the submission of either proposition (a) or (b), or both propositions (a) and (b), the governing board of the district may submit to the qualified electors of the district a proposition for the abandonment of the building and the use of tents or other temporary structures for school purposes in lieu of the building abandoned.

Neither of the propositions under (a) and (b) shall be required to make provision for financing of the entire repair, reconstruction or replacement program of the district, but shall at least provide funds for commencement of such repair, reconstruction or replacement, consistent with the governing board's plan.

39217. Where authorization of the qualified electors for the expenditure of the funds is required under any law of this state, the proposition to authorize the expenditure shall be submitted at the election.

39218. The resolution ordering and the notice calling the election

shall specify the building or buildings initially proposed to be repaired, reconstructed, or replaced, and those proposed to be repaired, reconstructed, or replaced pursuant to the governing board's plan.

39219. The election shall be called, held and conducted in the manner provided in Chapter 3 (commencing with Section 5300) of Part 4 of Division 1 of Title 1. Each elector shall be entitled to vote upon each of the propositions.

39220. If, at the election, the requisite number of voters cast their ballots in favor of the issuance of bonds, the bonds shall be issued and sold in the manner provided by law for the issuance and sale of bonds of the district, and the proceeds used for the purpose or purposes specified in the resolution or notice calling the election. In such event, the results of the voting upon the proposition calling for an increase in the maximum tax rate of the district submitted at the election shall be disregarded.

39221. If, at the election, issuance of bonds of the district is not authorized, and if, on the proposition of increasing the tax rate of the district the number of votes cast in the affirmative is sufficient to authorize an increase in the tax rate of the district, the increase shall be authorized, and the governing board shall proceed to increase the rate and to use the proceeds of the increased tax solely for the purpose or purposes specified in the resolution or notice calling the election.

39222. If, at the election, no proposition which is required to be submitted to the qualified electors is approved and authorized, the governing board of the district shall, in accordance with the same or a modified plan, submit either the proposition to authorize the issuance of bonds, or the proposition to increase the tax rate, or both, no later than five years following the last submission of either or both of these propositions to the qualified electors of the district. The result of the voting on the proposition to authorize the use of tents or other temporary structures shall be considered by the governing board as an advisory vote, and the tents or other temporary structures may be used for school purposes to the extent that such use is deemed necessary by the governing board.

39223. The governing board of each school district required to act pursuant to Section 39212 shall, within 12 months after receiving the report of the examination of the building or buildings, place on file with the Bureau of School Planning within the Department of Education a summary of all reports of examinations and estimates relating to school buildings which have not been repaired, reconstructed or replaced in accordance with law, including a summary of previous elections held and actions taken concerning this matter, if any, and a statement of intentions to repair, reconstruct or replace such buildings which shall constitute the governing board's plan. The plan shall include the approximate date it is contemplated that such actions to repair, reconstruct or replace each such building will occur.

39224. The Bureau of School Planning within the Department of

Education shall summarize and report to the Legislature every two years, commencing with the 1968 Regular Session, the data placed on file with the bureau pursuant to Section 39223.

39225. Except as provided in Section 39226, nothing in this article shall be construed as relieving any member of the governing board of a school district of any liability for injury to persons or damage to property imposed by law.

39226. No member of the governing board of a school district shall be held personally liable for injury to persons or damage to property resulting from the fact that a school building was not constructed under the requirements of Article 3 (commencing with Section 39140) of this chapter, if such governing board complies with the provisions of this article. Such limit on liability shall commence when such governing board initiates action to comply with the provisions of Section 39212.

A licensed structural engineer or licensed architect employed by a governing board to examine any school building under this article shall not be held personally liable for injury to persons or damage to property as a result of the structural inadequacy and failure of a building, provided he has exercised normal professional diligence in carrying out his functions under Article 3 (commencing with Section 39140) of this chapter and the provisions of this article.

39227. No school building examined and found to be unsafe for school use pursuant to Section 39212 and not repaired or reconstructed in accordance with the provisions of this article, and no school building which has never met the requirements of Article 3 (commencing with Section 39140) of this chapter, shall be used as a school building for elementary or secondary school purposes after June 30, 1975, except as permitted by Article 7 (commencing with Section 39240) of this chapter, unless the governing board of the school district has requested and obtained from the State Allocation Board authority for use of such building for a specific period beyond such date. Prior to requesting such authority, the governing board shall adopt a resolution declaring the board's intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement. The State Allocation Board shall not authorize any school district to use such a building beyond June 30, 1975, unless it has first determined that the school district has already proceeded with a plan of total repair, reconstruction or replacement in a timely manner and a contract has been let for any phase of, and work commenced on, such project. In no event shall the State Allocation Board authorize the use of such unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

39228. Notwithstanding any other provision of this article or Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1, whenever a school district does not have funds available to repair, reconstruct, or replace the school buildings referred to in this article or Section 16320, the school district shall apply for such funds as may be necessary to accomplish such repair,

reconstruction, or replacement pursuant to the provisions of Article 9. The school district shall also accept such funds as are disbursed to the district pursuant to Article 9, whether or not the funds constitute the maximum amount applied for, and shall repay such funds in accordance with the provisions of Article 9. In cases in which funds derived from a tax increase levied pursuant to Section 39230 or 39230.5 are utilized to match amounts disbursed to a school district under an apportionment made pursuant to Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1, such disbursement and repayment may be made without the necessity of a vote of the electorate of the district as prescribed in any provision of Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1.

39230. The governing board of a school district may undertake corrective measures relating to earthquake safety recommended to the governing board pursuant to Section 39212 in connection with any school building under the jurisdiction of the governing board without compliance with the procedures otherwise prescribed by Section 39216.

The maximum rate of tax of any school district for the fiscal years 1974-75 to 1976-77, inclusive, is hereby increased by such amount as will produce the amount necessary to have any school buildings examined as required by Section 39212 and to effect the corrective structural repairs, reconstruction or replacement relating to earthquake safety recommended pursuant to Section 39212, as shown by the budget of the district for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from revenue from the increase in the rate of tax provided by this section. The funds provided by such increase in the tax rate may be used to provide for the housing of pupils temporarily displaced by the repair, reconstruction, or replacement of school buildings required in order to meet earthquake safety standards.

The increase provided by this section shall not exceed a total increase of ten cents (\$.10) for each one hundred dollars (\$100) of the assessed valuation of property within the district in each fiscal year, unless additional funds are specifically required by the district to match state funds provided pursuant to Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1. If such additional funds are required by the district, the maximum increase in tax rate provided by this section may be increased by not to exceed an additional ten cents (\$.10) for each one hundred dollars (\$100) of assessed valuation of property within the district in each fiscal year such additional funds are required pursuant to Article 9, prior to and including the 1973-74 fiscal year. Such additional tax money may be levied in the 1974-75 fiscal year only if the State Allocation Board has first approved an application of the district pursuant to Article 9. After the 1974-75 fiscal year, any district which has levied the entire twenty-cent (\$.20) amount permitted by this section in the preceding fiscal year and has deposited in the

State School Building Fund of the district, the proceeds derived therefrom as matching funds in an application or applications under Article 9 may levy the same twenty-cent (\$.20) tax or so much thereof as is necessary for matching funds for an application or applications under Article 9 in any succeeding fiscal year, including, but not beyond, the 1976-77 fiscal year.

Any balance derived from the revenue of the increase in tax rate levied for matching purposes of Article 9, as herein provided, which is not expended under an application or applications approved pursuant to Article 9 at the completion of the construction project and approval of final costs thereof by the State Allocation Board shall be applied as a repayment of any apportionment heretofore or hereafter outstanding against the district under the provisions of Article 9.

This section shall remain operative only until July 1, 1978, and as of such date is repealed.

Notwithstanding the provisions of this section, the governing board shall comply with the provisions of Section 39212 whenever such compliance is necessary to continue the program of corrective structural repairs, reconstruction, or replacement required pursuant to the provisions of this article.

(Amended by Stats 1976, Ch 1011)

[ORIGINAL SECTION]

39230. The governing board of a school district may undertake corrective measures relating to earthquake safety recommended to the governing board pursuant to Section 39212 in connection with any school building under the jurisdiction of the governing board without compliance with the procedures otherwise prescribed by Section 39216.

The maximum rate of tax of any school district for the fiscal years 1974-75 to 1976-77, inclusive, is hereby increased by such amount as will produce the amount necessary to have any school buildings examined as required by Section 39212 and to effect the corrective structural repairs, reconstruction or replacement relating to earthquake safety recommended pursuant to Section 39212, as shown by the budget of the district for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from revenue from the increase in the rate of tax provided by this section. The funds provided by such increase in the tax rate may be used to provide for the housing of pupils temporarily displaced by the repair, reconstruction, or replacement of school buildings required in order to meet earthquake safety standards.

The increase provided by this section and Section 39229 shall not exceed a total increase of ten cents (\$.10) for each one hundred dollars (\$100) of the assessed valuation of property within the district in each fiscal year, unless additional funds are specifically required by the district to match state funds provided pursuant to Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1. If such additional funds are required by the district, the maximum increase in tax rate provided by this section may be increased by not to exceed an additional ten cents (\$.10) for each one hundred dollars (\$100) of assessed valuation of property within the district in each fiscal year such additional funds are required pursuant to Article 9, prior to and including the 1973-74 fiscal year. Such additional tax money may be levied in the 1974-75 fiscal year only if the State Allocation Board has first approved an application of the district pursuant to Article 9. After the 1974-75 fiscal year, any district which has levied the entire twenty-cent (\$.20) amount permitted by this section in the preceding fiscal year and has deposited in the State School Building Fund of the district, the proceeds derived therefrom as matching funds in an application or applications under Article 9 may levy the same twenty-cent (\$.20) tax

or so much thereof as is necessary for matching funds for an application or applications under Article 9 in any succeeding fiscal year, including, but not beyond, the 1976-77 fiscal year

Any balance derived from the revenue of the increase in tax rate levied for matching purposes of Article 9, as herein provided, which is not expended under an application or applications approved pursuant to Article 9 at the completion of the construction project and approval of final costs thereof by the State Allocation Board shall be applied as a repayment of any apportionment heretofore or hereafter outstanding against the district under the provisions of Article 9.

This section shall remain operative only until July 1, 1978, and as of such date is repealed.

Notwithstanding the provisions of this section, the governing board shall comply with the provisions of Section 39212 whenever such compliance is necessary to continue the program of corrective structural repairs, reconstruction, or replacement required pursuant to the provisions of this article

39230.5. Notwithstanding the provisions of Section 39230, a district having an approved application under the provisions of Section 16339.6 may levy a tax at the rate of twenty cents (\$.20) per one hundred dollars (\$100) of assessed valuation for the 1975-76 fiscal year only.

39231 (Repealed by Stats 1976, Ch 1011 )

[ORIGINAL SECTION]

39231 Whenever the geological characteristics of a school site in which any public school building is located is subject to Section 39213, the governing board of the school district may undertake corrective measures relating to earthquake safety recommended to the governing board pursuant to Section 39212 in connection with any school building under the jurisdiction of the governing board without compliance with the procedures otherwise prescribed by Section 39216

The maximum rate of tax of any such school district for the fiscal years 1974-75 and 1975-76 is hereby increased by such amount as will produce the amount necessary to have any school buildings, subject to Section 39213, examined as required by Section 39212 and to effect the corrective structural replacement relating to earthquake safety recommended pursuant to Sections 39212 and 39213, as shown by the budget of the district for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from revenue from the increase in the rate of tax provided by this section. The funds provided by such increase in the tax rate may be used to provide for the housing of pupils temporarily displaced by the replacement of school buildings required in order to meet earthquake safety standards

The increase provided by this section shall not exceed a total increase of ten cents (\$.10) for each one hundred dollars (\$100) of the assessed valuation of property within the district in each fiscal year.

If at the end of any school year, there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance may be accumulated until the date specified in this section for the termination of its effect and shall be used exclusively for expenditures of the school district for purposes of this section

The increase in tax rate provided by this section shall not be deemed to be in addition to the increase provided by Section 39230. During any period in which both this section and Section 39230 are in effect and operative, this section shall be deemed alternative to Section 39230 in any instance in which both are applicable to any particular factual situation

This section shall remain in effect until July 1, 1976, and as of that date is repealed. This section shall remain in effect until such date regardless of the repeal or expiration of Sections 39229 and 39230

Notwithstanding the provisions of this section, the governing board shall comply with the provisions of Section 39216 whenever such compliance is necessary to continue the program of corrective structural repairs, reconstruction, or replacement required pursuant to the provisions of this article.

39232. Any revenue derived from an increase in the rate of tax provided by Section 39230 prior to July 1, 1975, and which is unexpended on that date, may be used after July 1, 1975, by the governing board of a school district to complete the corrective structural repair, reconstruction, or replacement of any school building subject to Section 39212 which had not been completed on that date.

Article 7. Lease and Lease-Purchase of Sites, Buildings, and Facilities

39240. The provisions of this article shall govern the lease or lease-purchase of sites, buildings, and facilities by the governing board of any school district whenever the school district is the lessee or purchaser and the lease or lease-purchase is not subject to Section 18 of Article XVI of the Constitution.

39241. For purposes of this article the following definitions shall govern:

(a) "Temporary use building" is any building for which the intended use by the school district at the time of entering into a lease contract or agreement is not for more than three years from the date of first occupancy.

(b) "Relocatable structure" is any structure that is designed to be relocated.

39242. (a) The governing board of any school district may lease land for a term extending to the expected duration of use by the school district.

(b) Any lease contract or agreement entered into pursuant to this section shall be initiated by resolution authorizing such action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

39243. (a) The governing board of any school district may lease temporary use buildings for a term extending to the expected duration of use by the school district.

(b) Any lease agreement or contract entered into pursuant to this section shall be initiated by resolution authorizing such action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

(c) A governing board of a school district shall not enter into a lease pursuant to subdivision (a), unless the resolution adopted pursuant to subdivision (b) has been published in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. Notice shall be published no less than once a week for three weeks prior to the execution of the lease by the board.

(d) Any temporary-use building in which pupils are expected to

enter and which is leased under one, or successive leases, for a total time in excess of three years, or under a lease-purchase contract, shall be subject to the provisions of Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of this chapter.

39244. Any lease contract or agreement entered into pursuant to Section 39243 shall be subject to the condition that the site on which any temporary-use building is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or lease-purchase contract or agreement under the terms of which the land is leased to the district for a term at least as long as the intended use of the building, and under conditions that are compatible with the intended use of the building.

39245. Any lease contract or agreement entered into pursuant to Section 39243 may provide for the joint use and occupancy by any public or private entity.

39246. (a) The governing board of any school district may lease relocatable structures for a term extending to the expected duration of use by the school district, but not to exceed 10 years.

(b) Any lease agreement or contract entered into pursuant to this section shall be initiated by resolution authorizing such action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

39247. In any lease made pursuant to Section 39246, it shall be competent to provide that the school district lessee may purchase the relocatable structure at an agreed purchase price and that rental paid for the use of such structure or building shall be applied in whole or in part upon the purchase price.

39248. Any lease contract or agreement entered into pursuant to Section 39246 shall be subject to the following conditions:

(a) A leased relocatable structure in which students are expected to enter and which is to be used for school purposes for a total time in excess of three years shall be subject to the provisions of Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of this chapter.

(b) Subdivision (a) of this section shall not apply to trailer coaches used for classrooms or laboratories if such trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 16 feet in width, are used for special educational purposes, and are used by not more than 12 students at a time, except that such trailer coaches may be used by not more than 20 students at a time for driver training purposes.

(c) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

39249. (a) Notwithstanding any other provision of law to the

contrary, the governing board of any school district may designate a building, which is primarily used for other than public school purposes, as an "offsite location" for the purpose of conducting instruction in educational programs as prescribed by the governing board, provided that such educational programs require an "offsite location" in order to adequately fulfill the objective of the educational program.

(b) Any building used as an "offsite location" pursuant to subdivision (a) shall not be subject to Article 3 (commencing with Section 39140) of, or Article 6 (commencing with Section 39210) of, this chapter.

39250. The governing board of a school district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 12 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

(c) Except as otherwise provided, any building leased for a total time in excess of three years, or under a lease-purchase agreement, shall be deemed the construction or alteration of a school building, as those terms are used in Article 3 (commencing with Section 39140) of this chapter.

39251. Any lease or lease-purchase contract or agreement executed prior to the effective date of this article shall remain in full force and effect. The renewal of such contracts or agreements, however, shall be governed by the provisions of this article.

39252. Notwithstanding any limitations or requirements imposed by this article upon the leasing or renewal of leasing of relocatable structures on and after August 27, 1974, all acts and proceedings heretofore taken by or on behalf of any school district for the lease of, or the renewal of a lease of, relocatable structures, including but not limited to trailers, are hereby confirmed, validated and declared to be legally effective and such lease agreements or renewals of such lease agreements, are legal, valid and binding obligations if such lease agreements, or renewals of such lease agreements would have otherwise been authorized under former Education Code Section 15352 or 15352.5 had such sections not been repealed on August 27, 1974, by Chapter 547 of the Statutes of 1974.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

39252. Notwithstanding any limitations or requirements imposed by this article upon the leasing or renewal of leasing of relocatable structures on and after August 27, 1974, all acts and proceedings heretofore taken by or on behalf of any school district or community college district for the lease of, or the renewal of a lease of, relocatable structures, including but not limited to trailers, are hereby confirmed, validated and declared to be legally effective and such lease agreements or renewals of such lease agreements are legal, valid and binding obligations if such lease agreements or renewals of such lease agreements would have otherwise been authorized under

former Education Code Section 15352 or 15352.5 had such sections not been repealed on August 27, 1974, by Chapter 547 of the Statutes of 1974

### Article 8. All-Purpose Recreational Stadium and Center

39270. The governing board of the Los Angeles Unified School District, the City of Los Angeles, and the Board of Supervisors of the County of Los Angeles may form a joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the financing, construction, and operation of an all-purpose recreational stadium and center in the harbor area of Los Angeles County.

The governing body of the joint powers agency shall be composed of the following members:

(a) One member appointed by the Los Angeles County Board of Supervisors.

(b) One member appointed by the City of Los Angeles.

(c) One member appointed by the governing board of the Los Angeles Unified School District.

(d) Two members by a majority of the three members appointed pursuant to subdivisions (a), (b), and (c).

39271. The Board of Supervisors of Los Angeles County may establish a county service area pursuant to Chapter 2.2 (commencing with Section 25210) of Part 2 of Division 2 of Title 3 of the Government Code, for the construction and operation of the recreational stadium and center, with the consent of both the City of Los Angeles and the governing board of Los Angeles Unified School District.

The boundaries of such a county service area shall be prescribed by the governing body of the joint powers agency.

39272. The governing body of the joint powers agency may, pursuant to Article 2 (commencing with Section 6540) of Chapter 5 of Division 7 of Title 1 of the Government Code, issue revenue bonds to finance the construction of the all-purpose recreational stadium and center.

39273. The governing body of the joint powers agency may, pursuant to the terms of the joint powers agreement, rent the stadium or center to any public or private entity. The proceeds of such rental shall be used for the payment of principal and interest on the revenue bonds and the operation and maintenance of the stadium and center.

39274. The board of supervisors may have levied and collected a tax within the county service area for the purpose of obtaining funds for contribution to the joint powers agency for the operation and maintenance of the stadium and center.

However, no such tax may be levied and collected unless a majority of the voters of the county service area voting at an election called for such purpose approve a ballot proposition authorizing the levy and collection of such tax. The election may be called by the

board of supervisors.

The joint powers agency shall not undertake any financing or construction of the all-purpose recreational stadium and center unless and until such proposition is approved by the voters.

39275. The Legislature finds and declares that because of a unique situation existing in the harbor area of the County of Los Angeles regarding the possible acquisition of useful federal surplus land, a general law, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable.

### CHAPTER 3. PROPERTY: SALE, LEASE, EXCHANGE

#### Article 1. Conveyances

39290. The governing board of any school district shall receive in the name of the district conveyances for all property received and purchased by it, and shall make in the name of the district conveyances of all property belonging to the district and sold by it.

39291. The governing board of any school district shall have the power to execute and deliver quitclaim deeds, either with or without consideration to the owners of real property adjacent to any real property owned by the school district, for the purpose of removing defects in and otherwise clearing up the title to such adjacent real property.

#### Article 2. Leasing Property

39300. Any school district may enter into leases and agreements relating to real property and buildings to be used by the district pursuant to this article. As used in this article, "building" includes (a) one or more buildings located or to be located on one or more sites; (b) the remodeling of any building located on a site to be leased pursuant to this article; (c) onsite and offsite facilities, utilities or improvements which the governing board determines are necessary for the proper operation or function of the school facilities to be leased. It also includes the permanent improvement of school grounds. As used in this article, "site" includes one or more sites, and also may include any building or buildings located or to be located on a site.

39301. As used in this article "lease or agreement" shall include a lease-purchase agreement.

39302. Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall have available a site upon which a building to be used by the district may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites, and it shall have prepared and shall have adopted plans and specifications for such building which have been approved pursuant to Sections 39117 to 39120, and Sections 39140 to 39155, inclusive. A district has a site

available for the purposes of this section if it owns a site or if it has an option on a site which allows the school district or the designee of the district to purchase the site. Any school district may acquire and pay for an option containing such a provision.

39303. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 40 years.

39304. Sections 39360 to 39379, inclusive, shall not apply to leases made pursuant to this article.

39305. The governing board of a school district may let, at a minimum rental of one dollar (\$1) a year, to any person, firm, or corporation any real property which belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term thereof, and provides that title to such building shall vest in the school district at the expiration of such term. Such instrument may provide for the means or methods by which such title shall vest in the school district prior to the expiration of such term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the school district.

39306. The governing board of any school district may enter into an agreement with any person, firm, or corporation under which such person, firm, or corporation shall construct, or provide for the construction of, a building to be used by the district upon a designated site and lease such building and site to the district. Such instrument shall provide that the title to such building and site shall vest in the district at the expiration of such lease, and may provide the means or method by which the title to the building and site shall vest in the district prior to the expiration of such lease, and shall contain such other terms and conditions as the governing board of the district deems to be in the best interest of the district.

The agreement entered into shall be with the lowest responsible bidder who shall give such security as the board requires. The board may reject all bids. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some paper of general circulation circulated in the county, a notice calling for bids, stating the proposed terms of the agreement and the time and place where bids will be opened.

39307. The governing board of a school district shall call and hold an election, pursuant to Section 39308 or 39311, before or after entering a lease or agreement, as the case may be, except that if the lease or agreement does not effect an increase in the existing applicable maximum tax rate of a community college district, the election requirements of this section shall not apply.

39308. Before entering into a lease or agreement pursuant to this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 85112 or

42202, as the case may be, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the \_\_\_\_\_ District purchase (a site, sites) prepare plans and specifications, [the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites and has prepared plans and specifications] and lease (a site and, sites and) (a building, buildings) to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed \_\_\_\_\_, such increase to be in effect in the \_\_\_\_\_ District for the years 19\_\_ to \_\_\_\_\_, be authorized and the amount of such increase used solely and exclusively for such purposes?"

39309. The governing board of the district, if the district proposes at an election held pursuant to Section 39308 to lease more than one building, may include in the ballot measure used in the election a statement that the district reserves the right to lease less than all of the proposed buildings designated in the ballot measure. If such a statement is included in the ballot measure, the governing board may at any time thereafter determine to not lease one or more of the buildings included in the ballot measure, and such determination shall not breach any obligation of the district to the voters of the district.

39310. An election held pursuant to Section 39308 or Section 39311 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 2504 of the Elections Code.

39311. In lieu of calling an election pursuant to Section 39308, the governing board of a school district may call an election pursuant to this section. Within 10 days after the governing board has opened the proposals pursuant to Section 39314 or has adopted a resolution pursuant to Section 39315 it may accept a proposal, if proceeding under Section 39314, and execute the lease or agreement, and immediately thereafter call an election pursuant to this section.

The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202 as the case may be, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the \_\_\_\_\_ District lease [a site (sites) and] a building [buildings] to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed, and generally describing the building or buildings and the cost thereof], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed \_\_\_\_\_, such increase to be in effect in the \_\_\_\_\_ District for the years 19\_\_ to \_\_\_\_\_, be authorized and the amount of such increase used solely and exclusively for such purposes?"

39312. If, at the election held pursuant to Section 39308 or Section 39311, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article.

39312.5. Whenever the electors of a school district, at an election held pursuant to Section 39308 or 39311, have approved an increase in the maximum tax rate of the district for the purpose of enabling the district to enter into a lease or agreement for a site or building, or both, and before such lease or agreement is entered into, or during the term of such lease or agreement, territory is taken from the district and annexed to or included in another district by any means, the acquiring district shall automatically assume and shall pay to the district from which the territory is transferred a proportionate share of any remaining payments due under the lease or agreement, as such payments become due, for so long as such lease or agreement runs.

The acquiring district's proportionate share shall be in the ratio which the total assessed valuation of taxable property in the transferred territory bore to the total assessed valuation of taxable property in the whole district from which the territory is transferred for the year immediately preceding the date on which the transfer became effective for all purposes.

This section shall be applicable only with respect to transfers of school district territory which become effective for all purposes after the effective date of enactment of this section, and shall be applicable whether the election under Section 39308 or 39311 occurred prior to or after the effective date of this section.

39313. If the governing board of the district fails to enter into a lease pursuant to this article within three years after the result of an election, held pursuant to Section 39308, at which a majority of the votes cast favors the proposition submitted, the authorization for an increase in the maximum tax rate shall become void.

39314. After the governing board of a school district has complied with Section 39302, it shall, in a regular open meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article. The resolution shall describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if such is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the school district will lease the building or site and building, as the case may be, and shall state that the proposals submitted therefor shall designate the amount of rental, which shall be annual, semiannual, or monthly, to be paid by the school district for the use of the building, or building and site, as the case may be. The

resolution shall fix a time, not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to enter such a lease or agreement with the school district will be received from any person, firm, or corporation, and considered by the governing board. Notice thereof shall be given in the manner provided in Section 39369.

At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to enter a lease or agreement and which are made by responsible bidders, the proposal which calls for the lowest rental shall be finally accepted, or the board shall reject all bids. The board is not required to accept a proposal, or else reject all bids, on the same day as that in which the proposals are opened.

39315. As an alternative to obtaining sealed proposals as required by Sections 39306 and 39314, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit corporation organized under Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code if the articles of incorporation or bylaws of the nonprofit corporation provide: (1) that no person shall be eligible to serve as a member or director of the nonprofit corporation except a person initially approved by resolution of the governing board of the school district, and (2) that no part of the net earnings of the nonprofit corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the school district. The resolution shall describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if such is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the school district will lease the building, or building and site, as the case may be.

Any building constructed by a nonprofit corporation pursuant to a lease or agreement entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Chapter 3.5 (commencing with Section 4220) of Division 5 of Title 1 of the Government Code. Section 15716 shall apply to such contract.

39316. Any bonds, notes, warrants or other evidences of indebtedness to be issued by a nonprofit corporation to finance the construction of a building pursuant to a lease or agreement entered into pursuant to Section 15712.5 shall be sold pursuant to Chapter 10

(commencing with Section 5800) of Division 6 of Title 1 of the Government Code.

39317. All such bonds, notes, warrants or other evidences of indebtedness referred to in Section 39316 and the interest thereon are exempt from all taxation in the state other than inheritance, gift and franchise taxes.

39318. Any building constructed for the use of a school district pursuant to this article is subject to Sections 39140 to 39155, inclusive.

39319. For the purposes of Sections 15102 and 15106 and Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1, 50 percent of any remaining payments for use of the building or site and building which would become due from the district under any leases and agreements entered into by the district pursuant to this article, if such leases and agreements were to run their full term, shall be considered outstanding bonded indebtedness.

39320. No district shall enter into any lease or agreement pursuant to this article if at the time 50 percent of any remaining rental payments for use of the building or site and building which would become due from the district pursuant to this article, including the lease or agreement to be entered into, if such leases and agreements were to run their full term, plus the total amount of district bonded indebtedness outstanding at the time, shall exceed 7.5 percent for elementary school districts and high school districts and 12.5 percent for unified school districts of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For the purpose of this section, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowners' property tax exemption.

39321. The governing board of the school district shall ascertain the general prevailing rate of per diem wages in the locality in which the building is to be constructed for each craft, classification or type of workman needed for the construction of the building and shall specify in the resolution and in the notice, required by Section 39314, or in the resolution required by Section 39315 and in the lease or agreement made pursuant to this article, what the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality is for each craft, classification or type of workmen needed for the construction of the building. The holidays upon which such rate shall be paid need not be specified by the governing board, but shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification or type of workmen employed on the project.

In determining such rates, the governing board shall ascertain and consider the applicable wage rates established by collective bargaining agreements and such rates as may have been predetermined for federal public works, within the locality and in the nearest labor market area. Where such rates do not constitute the

rates actually prevailing in the locality, the governing board shall obtain and consider further data from the labor organizations and employers or employer associations concerned, including the recognized collective bargaining representatives for the particular craft, classification or type of work involved. The rate fixed for each craft, classification or type of work shall not be less than the prevailing rate paid in such craft, classification or type of work.

Any agreement or lease entered into pursuant to this article shall require that such general prevailing rates will be paid. It shall also require that work performed by any workman employed upon the project in excess of eight hours during any one calendar day shall be permitted only upon compensation for all hours worked in excess of eight hours per day at not less than 1½ times the basic rate of pay. There may also be included in leases or agreements entered into pursuant to this article any other requirements with respect to matters related to the subject of this section which the governing board deems necessary or desirable.

39322. The provisions of this article prevail over any provisions of law which conflict therewith.

39323. All acts and proceedings taken prior to the effective date of the enactment of this section, by or on behalf of any district under this article, or under color of this article, for the authorization of an increase in the maximum tax rate of such district and for the leasing of a building or buildings for the purposes of the district are hereby confirmed, ratified, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such district and of any person, public officer, board, or agency, heretofore done or taken upon the question of the authorization of such tax rate increase or such leasing. Whenever an election has been called and held prior to the effective date of the enactment of this section, for the purpose of submitting to the voters of any district the question of an increase in the maximum tax rate of such district and for the leasing of a building or buildings for the purposes of the district, such election and all proceedings attendant thereon are hereby confirmed, ratified, validated, and declared to be legally effective for all purposes, and such tax rate increase, if authorized by the required vote and in accordance with the proceedings heretofore taken, shall be a legal and valid authorization, in accordance with its terms, and any tax heretofore or hereafter levied pursuant to such authorization shall be legal and valid. The foregoing provisions of this section shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in this article. The foregoing provisions of this section shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the California and United States Constitutions. The foregoing provisions of this section shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal

proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this section, and shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

In any school district in which an election was called and held prior to the effective date of this section in which the voters of such district authorized an increase in the maximum tax rate of such district and the leasing of a building or buildings for the purposes of the district, the law in effect at the date of the school district election shall govern the terms of the lease, the terms of the sale of related bonds, notes, and warrants, and the school district's maximum bonded indebtedness, and Section 39320 shall not be applicable to the school district's entry into any lease or agreement authorized at an election called and held prior to the effective date of this section.

39324. The governing board of a school district may lease property in an adjoining school district for garage, warehouse, or other utility purposes or may purchase property in an adjoining school district for such purposes and may dispose of such property in the same manner as property within the boundary of the district is purchased and disposed of.

The power of eminent domain shall not be applicable and such acquisitions by purchase shall be subject to the approval of the governing board of the school district in which the property is located.

39325. (a) This section shall apply only to a school district in which the electorate authorizes an increase in the maximum tax rate of the district pursuant to the provisions of this article for the lease of one or more schools, and there exists at the time of such election on a site owned by the district a school facility not owned by the district meeting all of the requirements of Article 3 (commencing with Section 39140) of this chapter, which site and school facility are designated and described in the ballot proposition approved by the voters.

(b) Notwithstanding any other provisions of law, a school district may lease from a California nonprofit corporation such existing school and may pay rentals therefor from funds derived from the increase in the maximum tax rate approved by the voters at such election; provided, further, that the purchase price of the school paid by the nonprofit corporation to the owners of the school shall not exceed the actual audited cost of construction thereof including actual interest paid on money borrowed to finance such construction. Prior to the purchase of the school by the nonprofit corporation, an independent certified public accountant shall be retained by the school district to verify the actual cost of construction and any interest paid to finance such construction, and the nonprofit corporation may conclusively rely upon any certificate or opinion setting forth such actual cost of construction and such interest

prepared by the independent certified public accountant.

(c) A school district, the electorate of which, prior to the effective date of this section, authorized an increase in the maximum tax rate in the manner, for the purposes, and under the circumstances specified in subdivision (a), may avail itself of the authority afforded by subdivision (b).

### Article 3. Leasing of Equipment

39330. Any school district or any county superintendent of schools may, as lessee, enter into a lease or lease-purchase agreement for equipment or service systems with any persons, firm, corporation or public agency. As used in this article "equipment" includes (1) schoolbuses, (2) other motor vehicles, (3) test materials, educational films, and audiovisual materials, and (4) all other items defined as equipment or service systems in the California School Accounting Manual.

39331. Before a lease or lease-purchase agreement may be entered into the lessee shall comply with all applicable provisions for bids and contracts prescribed by Article 3 (commencing with Section 39640) of Chapter 4 of this part. Each contract shall show the total price for an outright purchase of any item and also its total cost for the entire specified term of the contract.

39332. The term of any lease or lease-purchase agreement shall not exceed the estimated useful life of the item but in no event shall the term exceed 10 years. A lease, but not a lease-purchase agreement, may be renewable at the option of the lessee and the lessor, jointly, at the end of each term at a rate not more than 7 percent annually above the rate set pursuant to the existing agreement. In no event shall the combined period of the original lease and renewals or extensions exceed 10 years. Any contract for the lease or lease-purchase of equipment or service systems which was in existence prior to April 22, 1975, shall remain in effect and such terms are hereby ratified.

39333. As a lessor, a school district governing board is authorized to let, or let with option to purchase, any land, buildings, or equipment it determines is not needed for school purposes for a term extending to the end of the expected nonuse of the land, buildings, or equipment and under any conditions it deems reasonable. All such leases and leases with options to purchase to nonpublic agencies or individuals shall comply with the provisions of Sections 39520, 39521, 39522 and 39523.

### Article 4. Sale or Lease of Real Property

39360. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is

not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, and shall be made in the manner provided by this article.

39360.5. The sale of real property pursuant to this article shall be subject to the provisions of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

39361. The governing board of any school district which has by majority vote established a standard rate or rates for the lease pursuant to this article of its real property may by majority vote delegate to such officer or employee as the governing board may designate, the power to enter into leases, for and in behalf of the district, of any real property of the school district, with respect to which real property the district has received only one sealed proposal which conforms with the existing standard rate or rates, from a responsible bidder and no oral bid which would meet the requirements of Section 39372.

39362. The sale may be made for cash, or for part cash and upon such terms of deferred payments secured by purchase money, mortgage, or deed of trust as are determined by the action of the governing board.

39363. The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay; provided, however, that the proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 39363.5 may be deposited in the general fund of the district if, prior to such sale or lease, the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease.

39363.5. The sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures:

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value;

(1) In writing, to the state, the Regents of the University of California, the Trustees of the California State University and Colleges, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations organized pursuant to Part 3 (commencing with

Section 10200) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of such offers to accept.

(c) Third, the property shall be made available in writing to the former owner, in accordance with Section 39369.5.

(d) Fourth, the property may be disposed of in any other manner authorized by law.

39364. Notwithstanding any provisions of this article, any school district which has purchased a school site under the provisions of Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1 and has fully repaid any apportionments made for the purpose of such purchase may, upon sale of such site, deposit in the general fund of the district a portion of such sale proceeds which represents an excess over the original purchase price; provided that such school district: (a) has experienced a decrease in enrollment between the 1967-68 school year and the 1972-73 school year of at least 16 percent; and (b) has operated during the 1971-72 fiscal year at a cost of at least one hundred dollars (\$100) per unit of average daily attendance less than the average for the county in which the district is located; and (c) has no anticipated need, for the three years following such sale, for additional sites or building construction. This section shall remain in effect only until June 30, 1975 and as of that date is repealed.

39365. Any lease may be made upon such consideration or for such rental, as is authorized by the action of the governing board.

39366. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of

all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.

39367. In lieu of the declaration of intention to lease real property provided in Section 39366, the governing board of any school district having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year may publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district. The notice shall describe the property proposed to be leased in such manner as to identify it and shall specify the minimum rental and terms upon which it will be leased. The notice shall fix a time not less than 15 days thereafter for a public meeting of the governing board to be held at its regular place of meeting at which proposal to lease will be received and considered.

The governing board by majority vote may adopt a ruling delegating to such officer or employee of the district as the board may designate, authority to perform the duties prescribed in this section.

Bids received under this section shall be received, accepted, or rejected in accordance with the provisions of this article.

39368. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the sealed proposal or stated in or with the oral bid, which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

39369. Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

39369.5. (a) In the event that the governing board of a school district, intends to sell real property pursuant to this article, the

former owner from whom the district acquired the property shall be accorded the right, prior to the final acceptance of bids, to purchase the property at the tentatively accepted highest bid price.

(b) At any time after the notice of meeting given pursuant to Section 39369, and prior to the date of such meeting, the prior owner from whom the district acquired the property may submit to the governing board written notice of intention to purchase the property at the tentatively accepted highest bid price. Such notice does not constitute an offer to purchase.

(c) Bids, both written and oral, shall be submitted and acted upon by the governing board in the manner otherwise prescribed by this article, except that the acceptance of a bid shall be tentative only, subject to the right of the former owner to purchase the property.

(d) Upon receipt of bids, the governing board shall offer to sell the property to the former owner at the tentatively accepted highest bid price, subject to the terms and conditions of sale initially fixed by the board.

(e) In the event that the former owner rejects the offer, the governing board shall sell the property to the highest responsible bidder, by final acceptance of the bid theretofore tentatively accepted.

39370. Whenever it is proposed to lease real property and the governing board unanimously determines in the resolution that in its opinion, the monthly rental value of the property does not exceed the sum of fifty dollars (\$50), the resolution need not be posted and may, before the date of the meeting, be published in two successive issues of a weekly newspaper or in five successive issues of a daily newspaper. The newspaper in which the notice is published shall be one published in the district and having a general circulation there; or if there is no such newspaper, then one having a general circulation in the district; or if there is no such newspaper, then in one having a general circulation in a county in which the district or any part thereof is situated.

39371. At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

39372. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid

a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.

39373. The governing board by majority vote may adopt a rule delegating to an officer or employee of the district the authority to perform the duties required to be performed by the governing board under Sections 39371 and 39372. If such rule is adopted, the resolution required in Section 39366 shall specify, in lieu of the public meeting of the governing board to be held at its regular place of meeting, the place at which the designated officer or employee will receive and open sealed proposals to purchase or lease and will call for oral bids.

All other provisions of this article not in conflict with the delegation of this authority are applicable. However, the final acceptance of a bid, or rejection of all bids, shall be made by the governing board at a public meeting.

39374. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 39368 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.

39375. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

39376. The governing body may at the session, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

39377. Any resolution of acceptance of any bid made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessee of all the terms or conditions of his contract to be performed concurrently therewith.

39378. Nothing in Sections 39360 to 39512, inclusive, shall prevent the governing board of any school district from acquiring, leasing or subleasing property pursuant to Section 1261 of the Military and Veterans Code.

39379. The governing board of any school district may, without complying with any other provision of this article, let in the name of the district any buildings, grounds, or space therein, together with any personal property located thereon, not needed for school classroom buildings upon such terms and conditions as may be agreed upon by the governing board of the district and the lessee

thereof for a period not exceeding five separate or consecutive calendar days or portions thereof in each fiscal year.

39380. In addition to any other authority to lease real property, the governing board of a school district, by a two-thirds vote of its members, may lease, for a term not exceeding three months, school district property having a residence thereon, which cannot be developed for district purposes because of the unavailability of funds. The lease shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this section.

39381. The governing board of a school district may, with the approval of the county board of supervisors, sell or lease any building of the district together with the site upon which such building is located, without complying with any other provisions of this article, provided that the county board of supervisors finds that all of the following conditions exist:

(a) The sale or lease is to be made to an incorporated nonprofit tax-exempt community or civic organization with a membership comprised predominantly of persons residing in the community in which the building and site are situated.

(b) The building is not suitable for school purposes.

(c) The building has an historic value and its preservation and utilization for the benefit of the community will best be ensured by sale or lease to an organization specified in subdivision (a).

(d) The sale or lease is to be executed for a consideration to enure to the school district reflecting the fair market value of the property, or its fair rental value, as the case may be.

(e) Adequate provision has been made in connection with the sale or lease transaction to protect the district against all civil liabilities which might arise in connection with any use of the building and site.

39382. The failure to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

39383. The governing board of any school district, constituting the governing body of an elementary district, a high school district, and a community college district, or any two of such districts, may sell any building, structure, or other fixture, belonging to one of its respective districts to another district governed by it, for an amount to be fixed by the governing body, without advertisement for or receipt of bids or compliance with any other provisions of this code.

Whenever any property is sold under this section it shall be removed from the premises of the district selling it within 60 days from the date of the sale.

(Added by Stats 1976, Ch 1011.)

### Article 6. Ownership of Fixtures in Territory Withdrawn From District

39420. When any territory withdrawn from a school district pursuant to this code contains a school building, site or real property, the building or site, together with the fixtures thereof, shall, upon the withdrawal of the territory becoming effective, become the property of the district of which the territory becomes a part or the whole.

39421. If a dispute arises between the governing boards of the two districts concerned as to what constitutes fixtures, a board of arbitrators shall be appointed who shall determine what articles in a school building located within territory withdrawn from any school district are fixtures thereof. The board shall consist of one person selected by the district from which the territory is withdrawn, one person selected by the district of which it has become a part, and a third person appointed by the county superintendent of schools of the county in which the districts are located. The two districts involved may mutually agree that the person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the two districts, and the payment of the portion of the expenses is a legal charge against the funds of the school districts. The arbitrator or arbitrators shall proceed to view and examine such property, articles, equipment, and fixtures as they are requested to pass upon by the respective school districts and make a written finding as to what property, articles, or equipment constitute fixtures. The written finding and determination of a majority of the board of arbitrators is final and binding upon the school districts submitting the question to the board of arbitration.

### Article 7. Leasing for Production of Gas

39430. The governing board of a school district may, upon complying with the provisions of this article, enter into and be a party to a community lease to which a city or other public agency and one or more private persons or private agencies are also parties for the leasing of the parcels of lands owned by the district and the other parties for the extraction and taking of gas not associated with oil, on such terms and conditions as the governing board of the district may prescribe. Such lease may be entered into without complying with any provisions of this code except as provided in this article.

39431. The board shall not enter into and be a party to any such lease unless the following conditions have been met:

(a) A resolution authorizing such action and prescribing the terms of the lease has been adopted by the unanimous vote of all the members elected or appointed to the board;

(b) Such resolution has been published in a newspaper of general circulation published in the district, or if there be no such newspaper,

in a newspaper having a general circulation in the district, once a week for three weeks prior to the execution of the lease by the board.

39432. No well for the production of gas shall be drilled on any land owned by the district and leased pursuant to this article.

#### Article 8. Joint Occupancy

39440. Any school district may enter into leases and agreements relating to real property and buildings to be used jointly by the district and any private person, firm, or corporation pursuant to this article. As used in this article, "building" includes onsite and offsite facilities, utilities and improvements which as agreed upon by the parties are appropriate for the proper operation or function of the building to be occupied jointly by the district and the private person, firm, or corporation. It also includes the permanent improvement of school grounds.

Nothing in this article shall authorize the joint occupancy or the entry into any contract for the joint occupancy, by a school district and any other contracting party, of any building utilized in whole or in part for classroom purposes or other purposes involving group participation by pupils unless such classroom use or pupil participation is in connection with a voluntary adult education program. Except in connection with a voluntary adult education program, the occupancy of a building utilized for classroom purposes or other purposes involving group participation by pupils shall be exclusively by the school district.

39441. Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall own a site upon which a building to be used by the district and private person, firm, or corporation may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites.

39442. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 66 years.

39443. Sections 39360 to 39379, inclusive, shall not apply to leases made pursuant to this article.

39444. The governing board of a school district may let to any private person, firm, or corporation, any real property which belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the joint use of the school district and the private person, firm, or corporation during the term of the agreement; provided that title to that portion of the building to be occupied by the private individual, firm or corporation shall remain exclusively the personal property of the private party during the term of the lease and the title to such portion of the building to be occupied by the district shall vest in the district upon completion thereof and acceptance thereof by the school district; provided further that no rental fee or other charge for the use of the building shall be paid by the district.

39445. Any lease of real property by a school district to a private person, firm, or corporation pursuant to this article shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article; provided, however, that any such lease or agreement shall be subject to the provisions of Article 7 (commencing with Section 35230) of Chapter 2 of Part 21 of Division 3 of this title.

39446. Before entering into a lease or agreement pursuant to this article, the governing board of a school district shall comply with the provisions of Section 39447.

39447. For the purposes of receiving proposals for the joint occupancy of a building to be constructed on school property, the board shall, in a regular open meeting, adopt a resolution declaring its intention to consider the proposals. The resolution shall describe the proposed site on which the building to be jointly occupied is to be constructed in such a manner as to identify said site, shall specify the intended use of that portion of the building which is to be occupied by the district and shall fix a time not less than 90 days thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which meeting the board shall receive and consider all plans or proposals submitted.

39448. Notice of adoption of the resolution and the time and place of holding the meeting shall be given by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the district if there is one, or if none is published in the district, in a newspaper published in the county.

39449. At the time and place fixed in the resolution for the meeting of the governing board, the board shall meet and consider all plans and proposals submitted for the joint occupancy of the building to be constructed on the proposed school site.

39450. After considering all proposals submitted, the governing board of the school district shall have the authority, subject to the provisions of Section 39451, to select the plan or proposal which best meets the needs of the school district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the school district's governing board; provided, however, that the governing board shall not approve any proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the State Board of Education, and the State Board of Education has approved such proposal. The State Board of Education shall, within 45 days of the date of submission, notify the governing board of its approval or disapproval.

The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file a bond, executed by either two or more good and sufficient sureties or by a corporate surety, for the performance of such lease or agreement.

39451. Any building constructed for the use of a school district

pursuant to this article is subject to Sections 39140 to 39155, inclusive, and all other provisions of this code relating to the physical structure of school buildings.

39452. The provisions of this article prevail over any provisions of law which conflict therewith.

39453. This article shall remain in effect until June 1, 1980, and shall have no force or effect after that date.

#### Article 9. Joint Use

39470. Any school district may enter into a lease or agreement with a city, county, or city and county for the joint occupancy, or a private education institution for its sole occupancy, of the real property and buildings of the school district, provided that no such occupancy of school buildings and grounds shall occur during normal school hours when the school is in session.

39471. As used in this article, "building" includes onsite and offsite facilities, utilities and improvements which as agreed upon by the parties are appropriate for the proper operation or function of the building to be jointly occupied and used. It also includes the permanent improvement of school grounds.

39472. Prior to entering into a lease or agreement pursuant to this article, the school district governing board shall determine that the proposed joint occupancy and use of school district property or buildings will not interfere with the educational program or activities of any school or class conducted upon the real property or in any such building.

39473. No such lease or agreement shall exceed a term of five years, but may be renewed on the same or different conditions at the end of such term.

#### Article 10. Exchange of Real Property

39480. The governing board of a school district may exchange any of its real property for real property of another person or private business firm. Any exchange shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this article.

39481. Before ordering any exchange of real property the board shall adopt, by a two-thirds vote of its members, a resolution declaring its intention to exchange the property. The resolution shall describe the properties to be exchanged in such manner as to identify them, and the terms and conditions, not including the price, upon which they will be exchanged.

39482. The board and the other party to the exchange each shall appoint one member of a board of appraisers, and the third member shall be selected by the county superintendent of schools. The governing board and the other party to the exchange shall agree on

the compensation of the board of appraisers. The amount for the board's appraiser and one-half of the amount for the appraiser appointed by the county superintendent of schools shall be a legal charge against the funds of the district exchanging the property.

The board of appraisers shall make a report to the parties to the exchange and the county superintendent of schools of its determination of the cash values of the properties proposed to be exchanged. The report may provide for payment by one of the parties to compensate for any difference in appraised values of the properties.

39483. If the county superintendent of schools approves the report of the appraisers and the terms and conditions set forth in the resolution, the governing board shall publish at least once a week for two weeks in a newspaper of general circulation, circulated in the county, the resolution and a notice stating the time and place within the district at which a public meeting of the board will be held to consider the report of the appraisers and the exchange of the real properties described in the resolution.

39484. At the time and place fixed in the published notice, the board shall meet and consider the report of the appraisers. It then may order the exchange pursuant to the terms and conditions set forth in the resolution and the report of the appraisers.

#### Article 11. Exchange of Property

39490. The governing board of any school district which has acquired title to property included within an application which has been approved by the State Allocation Board for state school building aid and which property is to be used as an access roadway to such school site may exchange such property for other property to be used as an access roadway which abuts a state highway, if in the opinion of the Division of Highways in the Department of Transportation there is objection to the first access roadway, and if in the opinion of the governing board the property acquired by such exchange will afford more safety to the pupils of the district.

39491. The governing board of any school district owning real property or any interest or estate therein, a boundary line of which is uncertain or is in dispute, may, by unanimous vote of all the members elected or appointed to the board and without complying with any provision of this code except as provided in this article, exchange with the owner of the adjoining property, which is involved in the uncertainty or dispute, such portion or interest or estate in such school property for property of equal value of such owner adjacent to the property of the school district for the purpose of settling such boundary line uncertainty or dispute. The question of value of the properties to be exchanged shall be determined by a panel of three disinterested and qualified real estate appraisers, one appraiser to be appointed by the governing board of the school district, one appraiser to be appointed by the owner of the other

property involved in the boundary line question, and the two appraisers so appointed to jointly select a third appraiser. One-half of the fee of each of said appraisers and one-half the fee of any surveyor employed to establish lines in connection with the determination of the boundary line uncertainty or dispute shall be a proper charge against the funds of the school district, provided that no such appraiser, including the selection of the other party and the selected third appraiser, or surveyor, shall be employed for any purpose herein authorized unless and until a resolution of intention so to employ is adopted by the governing board of the school district, and provided further that said resolution shall contain a statement substantially to the effect that the school district shall notify any appraiser or surveyor before being so employed that he may collect only one-half his fee from the school district.

**Article 12. Sale or Lease of Property by a District to Other  
Public Agencies**

39500. The governing boards of any school district may sell, exchange, grant or quitclaim all or any of its interest in, or may lease for a term not exceeding 99 years, to the federal government or its agencies, to the state, or to any county, city and county, city or special district, or to any other school district, any real property belonging to the school district, and which is not or will not at the time of delivery of title or possession be needed for school classroom buildings by the district owning it, as provided in this article.

39501. Any sale, exchange, lease or grant of an interest in real property by a school district pursuant to Section 39500 shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article.

39502. The board shall not enter into and be a party to any such sale, exchange, or lease unless the following conditions have been met:

(a) A resolution authorizing such action and prescribing the terms of the sale, exchange, or lease has been adopted by the unanimous vote of all the members elected or appointed to the board;

(b) Such resolution has been published in a newspaper published in the district and having a general circulation there; or if there be no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. Notice shall be published no less than once a week for three weeks prior to the making of the sale, exchange, or the execution of the lease by the board.

39503. In any lease made pursuant to this article, it shall be competent to provide that the school district lessee may purchase the property at an agreed purchase price and that rental paid for the use of the property shall be applied in whole or in part upon the purchase

price. The school district lessee may cancel the lease at the end of any budgetary year, and in such case shall not be obligated to complete the lease and shall be released from all obligations thereunder.

#### Article 13. Sale or Lease of Personal Property by One District to Another

39510. The governing board of any school district may sell any personal property or school supplies belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district and the governing board of another school district may purchase the property, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing, and handling the property, without advertisement for or receipt of bids or compliance with any other provisions of this code. The governing board of any school district may purchase any personal property or school supplies for the purpose of selling them, pursuant to this section.

This section does not authorize the purchase, for the purpose of resale, of standard school supplies and equipment by any elementary school district governed by school trustees.

39511. The provisions of Section 39510 shall be applicable to a sale of personal property from a unified school district whose boundaries are coterminous with a city or city and county to that city or city and county.

39512. The governing board of any school district may sell or lease used personal property belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district, and the governing board of another school district may purchase or lease the property. The selling price and the terms of sale, or the lease price and the terms of lease shall be fixed by the governing boards of the school districts effecting the sale or lease, and approved by the county superintendent of schools. The sale or lease may be made without advertisement for or receipt of bids, or compliance with any other provisions of this code.

#### Article 14. Sale of Personal Property

39520. The governing board of any school district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or

if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

39521. (a) If the board, by a unanimous vote of those members present, finds that the property does not exceed in value the sum of the five hundred dollars (\$500) it may be sold at private sale without advertising, by any member or employee of the board empowered for that purpose by the majority vote of the board.

(b) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, it may be disposed of in the local public dump on order of any member or employee of the board empowered for that purpose by the majority vote of the board.

39522. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made.

39523. The governing board of any school district may dispose of personal property belonging to the district for the purpose of replacement by providing in the notice calling for bids for furnishing new materials, articles, or supplies that each bidder shall agree in his bid to purchase the property being replaced and to remove it from the school grounds and shall state in his bid the amount which he will deduct from the price bid for furnishing new materials, articles, or supplies as the purchase price for the personal property being purchased from the district. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

39524. The governing board of any school district may enter into contracts with manufacturers or suppliers for the exchange of household appliances and equipment belonging to the district and used for instructional purposes for new property of like class and kind for a similar use without advertising for or taking bids; provided, the cost to the district for such exchange shall not exceed the excess, if any, of the manufacturer's or supplier's selling price of the new property over the original cost to the district of the property being disposed of by the district, plus any applicable tax.

39525. The governing board of any school district may, when calling for bids and letting contracts for constructing new school buildings, or repairing, altering, adding to, or reconstructing existing school buildings, or demolishing existing school buildings, require each bidder for the performance of the work to agree in his bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from any existing school building on the same school grounds and not required for school purposes and to state in his bid the amount which he will deduct from the price bid for the work as the purchase price of the old materials. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

39526. The governing board of a school district may authorize any

officer or employee of the district to sell to any pupil personal property of the district which has been fabricated by such pupil, at the cost to the district of the materials furnished by the district and used therein.

39527. The governing board of a school district may sell to persons enrolled in classes for adults maintained by the district such materials as may be necessary for the making of articles by such persons in such classes. The materials shall be sold at not less than the cost thereof to the district and any article made therefrom shall be the property of the person making it.

39528. A school district may, in accordance with regulations adopted by the governing board of the district and for educational use, sell, give, or exchange for similar published materials, published materials prepared by the district in connection with the curricular and special services that the district is authorized to perform. Unless restricted by the regulations of the governing board, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published material in accordance with this section is declared to be a public purpose and in furtherance of Article IX, Section 1, of the Constitution.

A school district may also license the use of copyrights held by the district, to the same persons or entities and for the same purposes as provided in the above paragraph.

The district shall grant a license to any public agency organized under the authority of this state, unless an exclusive license has previously been granted a private publisher.

Any charge which may be assessed such a public agency for the license to use the copyright or for materials, to which the district holds the copyright, shall not exceed the cost to the district of the preparation and reproduction of the materials.

Any granting of a license, by a school district, to reproduce copyrighted material is declared to be for a public purpose in furtherance of Article XI, Section 1, of the Constitution.

39529. Notwithstanding any other provision of law, the governing board of any school district owning land upon which agricultural products are grown may enter into agreements with an agricultural cooperative or association for the purpose of maintaining, harvesting or selling such products.

#### Article 15. Dedication of Real Property

39540. The governing board of any school district may, pursuant to this article, dedicate or convey to the state, or any political subdivision or municipal corporation thereof, for public street or highway purposes, either with or without consideration and without a vote of the electors of the district first being taken, any real property belonging to the district, either in fee or any lesser estate or interest therein, including abutter's right of access to any public

street or highway; and may dedicate or convey to any public corporation, or private corporation engaged in the public utility business, without a vote of the electors of the district first being taken, an easement to lay, construct, reconstruct, maintain, and operate water, sewer, gas, or storm drain pipes or ditches, electric or telephone lines, and access roads used in connection therewith, over and upon any land belonging to the school district, upon such terms and conditions as the parties thereto may agree.

39541. Before ordering the dedication or conveyance of any property the governing board shall in regular open meeting by a two-thirds vote of all its members adopt a resolution declaring its intention to dedicate or convey the property. The resolution shall describe the property proposed to be dedicated or conveyed in such manner as to identify it, and shall specify the purposes for which and the terms upon which it will be dedicated or conveyed, and shall fix a time not less than 10 days thereafter for a public meeting of the governing board to be held at its regular place of meeting for a public hearing upon the question of making the dedication or conveyance.

39542. Notice of adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the members of the board, or by a majority thereof, in three public places in the district not less than 10 days before the date of the meeting, and by publishing the notice once not less than five days before the date of the meeting in a newspaper of general circulation, published in the district, if there is one, or, if there is no such newspaper published in the district, then in a newspaper published in the county in which the district or any part thereof is situated and having a general circulation in the district.

39543. At the time and place fixed in the resolution for the meeting of the governing board the public hearing shall be held, and the governing board may at the meeting, or at any other meeting of the governing board held within 60 days thereafter, unless a protest is entered, adopt a resolution by a two-thirds vote of all its members authorizing and directing the president of the governing board, or any other presiding officer, or the secretary, or the members thereof, to execute a deed of dedication or conveyance of the property and to deliver it. Upon the delivery and acceptance of the deed the dedication or conveyance is fully effective.

39544. A petition protesting against the proposed dedication or conveyance signed by at least 10 percent of the qualified electors of the district, as shown by the affidavit of one of the petitioners, may be filed with the governing board at the meeting held at the time and place fixed in the resolution. If a protest is filed, the governing board shall, before taking any further action on the proposed dedication or conveyance, submit the question of whether the proposed dedication or conveyance should be made, to the superintendent of schools of the county having jurisdiction over the district, whose decision is final. If the superintendent approves the proposed dedication or conveyance, the board may proceed as provided in

Section 39543. If the superintendent of schools does not approve the proposed dedication or conveyance, no further proceedings shall be had thereon.

39545. Whenever school districts are required to improve and dedicate real property to the centerline of streets or highways adjacent to a school site or forming an intersection at a school site location, and when such street or highway rights-of-way are being conveyed to the city or county or by the city or county to the school district, the requirements of this article shall be deemed satisfied solely by posting a notice of intention to convey in an appropriate location before conveyance.

#### Article 16. Temporary Transfer of Mutual Water Company Stock

39560. The governing body of any school district owning shares of stock in a mutual water company, which stock is not appurtenant to any land, may rent, lease, or assign such shares, for a term not to exceed one year, if the board determines the water to which the district is entitled by ownership of such shares is not required to meet the needs of the district during the term for which it is rented, leased or assigned.

39561. The rental, lease, or assignment of the shares of stock shall be made upon such consideration, and such terms and conditions, as may be fixed by action of the board.

39562. No rental, lease, or assignment of shares of stock shall be made until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated.

### CHAPTER 4. PROPERTY MAINTENANCE AND CONTROL

#### Article 1. Duties of Governing Board

39600. The governing board of any school district shall manage and control school property within its district.

39601. The governing board of any school district shall furnish, repair, insure against fire, and in its discretion rent the school property of its districts. The governing board may also insure the property against other perils. The insurance shall be written in any admitted insurer, or in any nonadmitted insurer to the extent and subject to the conditions prescribed in Section 1763 of the Insurance Code. Insurance on property of a district may be, in the discretion of the governing board, of the deductible type of coverage. By deductible type of coverage is meant a form of insurance under

which the insurance becomes operative when the loss and damage exceeds an amount stipulated in the policy or policies.

The governing board, in their notice of bid for any school district construction, may indicate that it may elect to assume the cost of fire insurance by adding the coverage to the district's existing policy and in such event bids made on such construction shall be made in the alternative, with and without the fire insurance coverage included, and the governing board shall make its election as to who shall secure and pay for such insurance at the time of accepting the bid.

39602. The governing board of any school district may, by resolution, establish a fund for losses to school district property in the county treasury for the purpose of covering, with respect to school district property, the deductible amount under deductible types of insurance policies or losses due to noninsured perils. In the fund shall be placed such sums, to be provided in the budget of the school district, as will create an amount which, together with investments made from the fund, will be sufficient in the judgment of the governing board to protect the school district from losses on any part of its school property due to the deductible amount under deductible types of insurance policies or losses due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against losses to school district property partly by means of the fund and partly by means of insurance written by admitted insurers as provided in Section 39601.

Annual contributions to the fund shall not exceed one-half of 1 percent of the general fund budget of the school district or fifty thousand dollars (\$50,000), whichever is the greater.

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

Warrants shall not be drawn on or transfers made from the fund so created, except to reimburse or indemnify the school district for losses as herein specified, and only upon resolution duly adopted by the board of education.

The cash placed in the fund may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the school district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund.

39603. Nothing in the Education Code shall be construed as prohibiting two or more school districts subject to Section 39601 from performing the powers prescribed in Section 39602, through a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

39605. In districts situated within or partly within cities having a population of over five hundred thousand (500,000) as determined

by the 1920 federal census any board of education may establish a fund in the county treasury for the purpose of covering fire losses to school property in lieu of carrying fire insurance in admitted insurers as provided in Section 39601 of this code. In such fund shall be placed such sums, to be provided in the budget of the district, as will create an amount which, together with investments made from such fund, will be sufficient in the judgment of the board of education upon the advice of competent actuaries to protect such board of education against losses by fire on all or any part of the school property within its jurisdiction. Nothing contained herein shall be construed as prohibiting the board of education from providing protection against fire losses partly by means of such fund and partly by means of fire insurance written by admitted insurers as provided in Section 39601.

Such fund shall be considered as separate and apart from all other funds of the district and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets or fixing annual tax rates.

Warrants shall not be drawn on or transfers made from the fund so created except to reimburse the district for losses by fire and then only after resolution duly adopted by the board of education based upon findings by competent appraisers.

The cash placed in such fund may be invested and reinvested by the county treasurer with the advice and consent of the board of education in securities which are legal investments for surplus county funds in this state. The income derived from such investments together with interest earned on uninvested funds shall be considered revenue of and be deposited in such fund.

The county treasurer shall make quarterly reports to the board of education as to the condition of the fund, using as a basis for such report the cost or market value, whichever may be the lower, of the securities held as investments plus the cash in such fund.

39606. The governing board of any school district may grade, pave, construct sewers, or otherwise improve streets and other public places in front of real property owned or controlled by it, and also may construct in immediate proximity to any school or site owned or controlled by the district, pedestrian tunnels, overpasses, footbridges, sewers and water pipes when required for school or administrative purposes, may acquire property, easements and rights-of-way for such purpose, and may appropriate money to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality.

39607. Any provision to the contrary notwithstanding, the governing board of any school district, other than a city school district with over 50,000 pupils in average daily attendance during the preceding fiscal year, may construct pedestrian walks, footbridges, and pedestrian tunnels when required for the safety of

pupils attending the schools of the district, may acquire easements and rights-of-way for such purposes, and may appropriate money to acquire such easements and rights-of-way and to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality. Such pedestrian walks, footbridges, and pedestrian tunnels shall be constructed, and such easements or rights-of-way for such purposes shall be acquired, within one mile of the school for the pupils of which such walks, bridges, and tunnels are necessary.

39608. The governing board of any school district may install and maintain a lighting system in any underpass in the vicinity of a schoolhouse.

39609. The governing board of any school district may appropriate money to pay assessments, for the improvement of streets or other public places, levied against any real property owned by, or under the control of the board, when the property is included within an assessment district formed in pursuance of any general law of the state or under the charter of any municipality. The assessments may be paid out of any funds belonging to the school district, except funds derived from the sale of bonds or required by law to be used for teachers' salaries.

39610. The governing board of every school district shall provide a warm, healthful place in which children who bring their own lunches to school may eat the lunches.

39610.5. The governing board of a school district may construct a mobilehome site on the grounds of any school or schools maintained by the district, including all necessary appurtenances and fixtures, and may pay the cost of utilities, insurance, and necessary services, for the purpose of enabling a responsible person or persons to install and occupy a mobilehome on such site. Such person or persons, who need not be classified as employees of the district, shall, in return for being permitted to install and occupy a mobilehome on the school site on terms and conditions acceptable to the governing board, agree to maintain any surveillance over the school grounds as the school district governing board requires, and to report to school authorities illegal or suspicious activities that are observed.

39611. The governing board of any school district, when leasing a building for housing of school district employees, may lease such building for any period they deem necessary.

39612. The governing board of every school district shall provide, as an integral part of each school building, or as part of at least one building of a group of separate buildings, sufficient patent flush water closets for the use of the pupils. In school districts where the water supply is inadequate, chemical water closets may be substituted for patent flush water closets by the board.

This section shall apply to all buildings existing on September 19, 1947, or constructed after such date.

39613. In addition to the other powers granted the governing board of each school district may provide sewers and drains adequate to treat and/or dispose of sewage and drainage on or away from each school property. For this purpose it may construct adequate systems or acquire adequate disposal rights in systems constructed or to be constructed by others for these purposes without regard to their proximity. The cost thereof may be paid from the building fund, including any bond moneys therein.

39614. The governing board of each district maintaining a high school shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of their respective schools pursuant to Sections 39614 and 39616.

39615. All football equipment actually worn by pupils shall be cleaned and sterilized at least once a year. Football equipment used in spring training shall be cleaned and sterilized before it is used in the succeeding fall term.

39616. Any contract with a dealer or craftsman for the repair of football equipment belonging to the district or the state college shall specifically state or describe the materials to be used by the dealer or craftsman in repairing such equipment.

## Article 2. Duties of District Clerks

39630. The clerk of each district except a district governed by a city or city and county board of education shall, under the direction of the governing board, keep the schoolhouses in repair during the time school is taught therein, and exercise a general care and supervision over the school premises and property during the vacations of the school.

## Article 3. Contracts

39640. The governing board of any school district shall let any contracts involving an expenditure of more than five thousand dollars (\$5,000) for work to be done or more than eight thousand dollars (\$8,000) for materials or supplies to be furnished, sold, or leased to the district, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids. This section applies to all materials and supplies whether patented or otherwise.

39641. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time when and the place where bids will be opened. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received

after that time.

39642. Notwithstanding any other provisions of Sections 39640 to 39655, inclusive, the governing board of any school district without advertising for bids may authorize by contract, lease, requisition or purchase order, any public corporation or agency within the county whose superintendent of schools has jurisdiction over such school district, including the county, any city, town, district, or other school district of such county under the jurisdiction of the same county superintendent of schools, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors and other personal property for the district in the manner in which such other public corporation or agency is authorized by law to make such leases or purchases. Upon receipt of any such personal property, provided the same complies with the specifications set forth in the contract, lease, requisition or purchase order, the school district shall draw a warrant in favor of such other public corporation or agency for the amount of the approved invoice, including the reasonable costs to such other public corporation or agency for furnishing the services incidental to the lease or purchase of such personal property.

39643. Nothing in this code shall preclude the governing board of any school district from purchasing materials, equipment or supplies through the Department of General Services pursuant to Government Code Section 14814.

39644. Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

39645. Continuing contracts for the lease of electronic data-processing systems may be made with an acceptable lessor until the governing board of the school district determines that it is in the best interests of that school district to replace the present electronic data-processing systems. The governing board may make such contracts with an acceptable lessor who is one of the three lowest responsible bidders.

39646. The governing board of a school district, the employees of which regularly perform electromechanical or electronic data-processing work, may contract for electromechanical or electronic data-processing work to be done, or related services to be performed, for a period not to exceed 90 days, to meet emergency situations, or to meet temporary peak workloads, or on a temporary basis for specific projects when it is determined by the governing board, in its judgment, to be essential to the district to accomplish the work or services within established time limits, and when the personnel commission finds that it is not practical to employ temporary personnel pursuant to Article 6 (commencing with

Section 45240) of Chapter 5 of Part 25 of Division 3 of this title. In emergency situations arising between regularly scheduled meetings of the personnel commission, the approval of the personnel director shall constitute authority for an interim contract. The findings of the personnel director shall be effective until the next regular meeting of the personnel commission.

39647. Nothing contained in this article shall be construed to limit the authority of any school district to contract for electromechanical or electronic data-processing work to be done or related services to be performed with any other public agency pursuant to the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or Section 11000 or 11001 of this code.

39648. In an emergency when any repairs, alterations, work or improvement is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the board may by unanimous vote, with the approval of the county superintendent of schools, make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

39649. In each school district, the governing board may make repairs, alterations or additions to school buildings, repair or build apparatus or equipment, make improvements on the school grounds, and erect new buildings by day labor, or by force account, whenever the total cost of labor on the job does not exceed three thousand five hundred dollars (\$3,500) or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any school district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 federal census, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment by day labor or by force account whenever the total cost of labor on the job does not exceed three thousand dollars (\$3,000) or the total number of hours on the job does not exceed 750 hours whichever is greater.

For purposes of this section, day labor shall include the use of maintenance men, whether employed on a permanent or temporary basis.

39650. The governing board of any district defined hereafter, in addition to any other authority granted by law, may employ as classified employees, in accordance with rules and regulations established by the personnel commission, any certificated employees of the district or districts during vacation periods, or on any other day or days when the certificated employee is not required to perform services for the district, to repair or build apparatus or equipment related to their duties as certificated employees even though the total cost of labor exceeds one thousand dollars (\$1,000). This section applies only when the average daily attendance of any school district, or of two or more school districts governed by governing boards of identical personnel, is 400,000 or more, as shown by the annual report

of the county superintendent of schools for the preceding school year.

39651. The governing board of any school district may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, or workbooks in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

39652. Notwithstanding any limitations imposed by this article specifically with respect to electromechanical or electronic data-processing work to be done or related services to be performed, the governing board of a school district, the boundaries of which are coterminous with those of the City and County of San Francisco, may contract for such work to be done or related services to be performed, without regard to such limitations.

39653. Notwithstanding any limitations imposed by this article specifically with respect to electromechanical or electronic data-processing work to be done or related services to be performed, the governing board of any school district situated wholly or in part within a county having a population in excess of 1,400,000 in which no regional educational data-processing center was in operation on July 1, 1972, and which district had contracted, prior to January 1, 1972, for such electromechanical or electronic data-processing work to be done or related services to be performed, may contract for such work to be done or related services to be performed, without regard to such limitations. As used in this section "any school district" includes a unified school district which is effective for all purposes on July 1, 1973, and which includes within its boundaries all or a part of the territory of a school district which had contracted, prior to January 1, 1972, for such electromechanical or electronic data-processing work to be done or related services to be performed.

This section shall remain in effect only until June 30, 1975, and as of that date is repealed.

39654. The governing board of any school district may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

39655. The governing board of any school district shall determine the method of payment for construction contracts, including progress payments for completed portions of the work or for materials delivered on the ground or stored subject to the control of the board and unused.

39656. Wherever in this code the power to contract is invested in the governing board of the school district or any member thereof, such power may by a majority vote of the board be delegated to its district superintendent, or to such persons as he may designate, or if there be no district superintendent then to such other officer or employee of the district as the board may designate. Such delegation of power may be limited as to time, money or subject matter or may

be a blanket authorization in advance of its exercise, all as the governing board may direct; provided, however, that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, said approval or ratification to be evidenced by a motion of said board duly passed and adopted. In the event of malfeasance in office, the school district official invested by the governing board with such power of contract shall be personally liable to the school district employing him for any and all moneys of the district paid out as a result of such malfeasance.

39657. The governing board by majority vote may adopt a rule, delegating to such officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus and equipment. No such rule shall authorize any officer or employee to make any purchases involving an expenditure by the district of ten thousand dollars (\$10,000) or more. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by such officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the school district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

39658. The governing board of any school district with an average daily attendance of not less than 60,000 may by majority vote authorize its district superintendent, or such person as he may designate, to expend up to one hundred dollars (\$100) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the school district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

39659. If any change or alteration of a contract governed by the provisions of this article is ordered by the governing board of the district, such change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

(a) The amount specified in Section 39640, or 39649, whichever is applicable to the original contract; or

(b) Ten percent (10%) of the original contract price.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel,

having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also authorize any change or alteration of a contract for reconstruction or rehabilitation work other than for the construction of new buildings or other new structures, where the cost of the change or alteration is in excess of the limitations in subdivisions (a) and (b) but does not exceed 25 percent of the original contract price, without the formality of securing bids, when such change or alteration is a necessary and integral part of the work under the contract and the taking of bids would delay the completion of the contract. Changes exceeding 15 percent of the original contract price shall be approved by an affirmative vote of not less than 75 percent of the members of the governing board.

#### Article 4. Security Patrols

39670. The governing board of any school district may establish a security patrol and employ, in accordance with the provisions of Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of this title such personnel as may be necessary to ensure the security of school district personnel and pupils in or about school district premises and the security of the real and personal property of the school district and to cooperate with local law enforcement agencies in all matters involving the security of the personnel, pupils, and real and personal property of the school district. It is the intention of this provision that a school district security patrol shall be supplementary to city and county law enforcement agencies and shall under no circumstances be vested with general police powers.

39671. Persons employed and compensated as members of a security patrol of a school district, when appointed and duly sworn, are peace officers, as defined by Section 830.4 of the Penal Code, but only for the purpose of carrying out the duties of their employment.

39672. Persons employed and compensated as members of a security patrol of a school district shall be supplied with and authorized to wear a badge bearing the name of the school district. The employee shall carry a suitable identification card bearing his photograph and signature and the signature of the superintendent of the school district, and such other identification data as may be required by local law enforcement agencies. The governing board may direct the wearing of a distinctive uniform and shall prescribe same. The costs of required uniforms, equipment, identification badges and cards shall be borne by the district.

39673. The governing board of a school district which establishes a security patrol may provide and maintain motor vehicles for the use of the patrol. Any vehicle, when operated in the performance of his duties by any member of the security patrol, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

39674. The governing board of any school district having an

average daily attendance of not less than 6,000 nor more than 8,000, which has not established a security patrol pursuant to this article, may contract with any private patrol operator licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code to aid in the security of the school district's real and personal property; provided however, that notwithstanding any other provision of law to the contrary, no employee of any such private patrol operator shall carry any firearm at any time while performing duties in any school building or on the grounds of any school pursuant to such a contract. Expenditures in any one fiscal year for such service shall not exceed four thousand dollars (\$4,000).

For purposes of this section there shall not be included in the average daily attendance of an elementary school district, the attendance of pupils attending the seventh and eighth grades of a junior high school maintained by a high school district.

This section shall remain in effect only until July 1, 1976, and as of that date is repealed.

## CHAPTER 5. SUPPLEMENTARY SERVICES

### Article 1. Transportation

39800. The governing board of any school district may provide for the transportation of pupils to and from school whenever in the judgment of the board such transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of pupils to and from school by common carrier or municipally owned transit system, or may contract with and pay responsible private parties for the transportation. Such contracts may be made with the parent or guardian of the pupil being transported. A governing board may allow the transportation in schoolbuses owned or operated by the district of preschool or nursery school pupils. No state reimbursement may be received by a district for the transportation of such pupils.

Whenever the term "municipally owned transit system" appears in this article, it means a transit system owned by a city, or by a district created under Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

39801. The governing board of any school district may contract with the county superintendent of schools to provide necessary transportation services. The county superintendent of schools, acting pursuant to such a contract, shall have all the powers and duties granted to governing boards by this article.

39801.5. The governing board of any school district may contract for the transportation of matriculated or enrolled adults, or provide transportation to adults in district-owned equipment for educational

purposes other than to and from school.

Any district which contracts to provide or provides transportation to adults pursuant to this section may charge adults all or part of the costs of contracting for or providing such transportation services.

39802. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than five thousand dollars (\$5,000) is involved, secure bids pursuant to Sections 39640 and 39641 whenever it be contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to other than the lowest bidder. No board shall make any purchase or enter into any contract for the service without securing the written approval of the county superintendent of schools.

39803. (a) Continuing contracts for the furnishing of transportation of pupils in school districts to and from school, if made, shall be made for a term not to exceed five years. Such contracts shall be renewable at the option of the school district and the party contracting to provide transportation services, jointly, at the end of each term of the contract. The contract as renewed shall include, other than the rates of the previous contract, all of the terms and conditions of the previous contract, including any provisions increasing rates based on increased costs.

(b) Continuing contracts may be made for the lease or rental of schoolbuses, not to exceed five years, except that if such a lease or rental contract provides that the district may exercise an option either to purchase the buses or to cancel the lease at the end of each annual period during the period of the contract, such contract may be made for a term not to exceed 10 years.

(c) Notwithstanding any other provisions of law to the contrary, continuing contracts executed under the provisions of this section may be negotiated annually within the contract period when economic factors indicate such negotiation is necessary to maintain an equitable pricing structure. Such renegotiation shall be subject to the approval of both contracting parties.

(d) Any rental, lease, or lease-purchase of a schoolbus shall comply with all applicable provisions of Article 3 (commencing with Section 39330) of Chapter 3 of this part.

39804. When the governing board provides for the transportation of pupils to and from school by contract with a common carrier, municipally owned transit system, or responsible private party, the governing board may require the parents or guardians of all or some of the pupils transported to pay a portion of the cost of such transportation in an amount determined by the board. The amount determined by the board shall be no greater than that paid for transportation on a common carrier or municipally owned transit system by other pupils in the district who do not use the

transportation provided by the contract of the district. No charge under this section shall be made for the transportation of handicapped children.

39805. In bidding on contracts to be made pursuant to Section 39803, bidders may include in their bids abstractions of their quotations indicating the pricing structure used to compute the annual lease or rental payments for the sole purpose of identifying that portion of each annual lease or rental payment which may represent tax exemption reimbursement to the vendor, lessor or to their assignees.

39806. In lieu of providing in whole or in part for the transportation of a pupil attending the schools of a district, the governing board may pay to the parents or guardian of the pupil a sum not to exceed the cost of actual and necessary travel incurred in transporting such pupils to and from the regular day schools of the district. No payments shall be made pursuant to this section unless it will be more economical to make the payments than to provide for said transportation.

39807. In lieu of furnishing transportation to pupils attending the schools of a school district, the governing board may pay to the parents or guardian of each pupil the cost of food and lodging of the pupil at a place convenient to the schools. The amount paid on account of each pupil shall not exceed the estimated cost to the district of providing for the transportation of the pupil to and from his home and the school he attends.

39807.5. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 39800, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board provided that such district does not qualify to receive reimbursement from the State School Fund for transportation under Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of this division in the year in which the requirement to pay is made. The amount determined by the board shall be no greater than that paid for transportation on a common carrier or municipally owned transit system by other pupils in the district who do not use the transportation provided by the district. The governing board shall exempt from such charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of handicapped children. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

39808. The governing board of any school district may allow pupils entitled to attend the school of the district, but in attendance at a school other than a public school, under the provisions of Section 48222, transportation upon the same terms and in the same manner

and over the same routes of travel as is permitted pupils attending the district school.

The allowance of this section shall be restricted to actual transportation when furnished by the district to children attending the district school, and nothing in this section shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of children attending private schools.

## Article 2. Transportation, State Reimbursement

39820. Notwithstanding any other provision of law, the governing board of any school district may provide, beginning in the 1975-1976 fiscal year, for the transportation to and from public school of pupils who have attained the age of 3 years and 9 months and are enrolled in classes established pursuant to Section 52023, whenever in the judgment of the board, such transportation is advisable and good reasons exist therefor. A governing board may allow for the transportation of parents of pupils enrolled in such classes for the purpose of accompanying their children to and from the attendance center offering such early primary classes.

Districts shall receive state reimbursements for the transportation of such pupils pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of Division 3 of this title

## Article 3. Transportation, Schoolbuses

39830. A schoolbus is defined as any motor vehicle while being used for the transportation of any school pupil at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs but not used exclusively for the transportation of school pupils.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

39831. The State Board of Education may adopt reasonable regulations relating to the construction, design, operation, equipment, and color of schoolbuses. No regulation relating to the construction, design, or color of schoolbuses shall apply to buses purchased prior to September 15, 1935. Any schoolbus repainted after September 15, 1935, shall be painted to conform to all the regulations relating to the color of schoolbuses. The regulations, if approved by the Commissioner of the California Highway Patrol, shall be enforced by the California Highway Patrol. The State Board of Education may issue an order prohibiting the operation on public streets, highways and elsewhere of any schoolbus which does not comply with the regulations. The order shall be enforced by the California Highway Patrol.

39832. The name or names of the particular school or schools to which a schoolbus conveys pupils may be painted on the side of such bus, in the manner prescribed by the State Board of Education.

39833. Any officer, agent, or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of a schoolbus in violation of any regulation or order of the State Board of Education, and any person knowingly operating a schoolbus without possessing the qualifications required by the regulations of the State Board of Education for schoolbus operators, is guilty of a misdemeanor.

39834. Any officer, agent, or employee of a school district, or any other person, knowingly operating, or permitting or directing the operation of a schoolbus, when it is loaded with schoolchildren in excess of the limits of its seating capacity, is guilty of a misdemeanor.

39835. (a) The governing board of any school district may use schoolbuses to transport persons for purposes of community recreation as provided in Sections 10900 to 10915, inclusive, of this code. The transportation may be provided on any day or days throughout the school year.

(b) Any school district which files forms with the Superintendent of Public Instruction covering the annual report of transportation expense in connection with reimbursement for transportation shall show on said forms the total mileage of schoolbuses used in providing transportation for community recreation purposes. The Superintendent of Public Instruction, in accordance with regulations adopted by him, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting persons for community recreation.

39836. During any national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, the governing board of a school district may operate any bus owned or under lease to the district for the transportation of pupils of the district engaged in the harvesting of crops to and from the places of harvest and shall require the payment of a reasonable charge for transportation furnished.

39837. The governing board of any school district may use and operate any bus owned or under lease to the district for the transportation of pupils to and from their places of employment during the summer in connection with any summer employment program for youth. The governing board shall require the payment of a reasonable charge for transportation so furnished. The governing board shall, in accordance with Section 35208, adequately insure against the liability of the district, members of the board, and officers and employees of the district in connection with the furnishing of such transportation.

39838. Each schoolbus shall be equipped with one or more fire extinguishers bearing the approval of the laboratories of the National Board of Fire Underwriters, Underwriters' Laboratories Incorporated, or any other nationally recognized testing laboratory, and located in an easily accessible place in the driver's compartment.

Each schoolbus shall be equipped with one or more fire extinguishers with an aggregate rating of at least 8-B,C units, as rated by the Underwriters' Laboratories Incorporated. Carbon tetrachloride fire extinguishers shall not be used on schoolbuses.

39839. Guide dogs may be transported in a schoolbus when trained in schools licensed or approved by the California State Board of Guide Dogs for the Blind, and accompanied by blind pupils enrolled in a public high school or by blind teachers employed in a public high school or community college or by persons employed by those licensed or approved schools to train such dogs. The driver of a schoolbus may determine whether or not the guide dog should be muzzled while being transported in the schoolbus.

39840. The governing board of any school district may enter into a contract under the terms of which the school district grants the use of any schoolbus which is owned or leased by the school district to any federal, state, or local governmental agency for the purpose of providing transportation for employees of said agency to or from their places of employment, or both; provided that:

(a) No public transportation is reasonably available to said agency's employees at their place of employment.

(b) The school district normally provides transportation for students residing on the governmental agency's property to or from school, or both.

(c) The transportation of said agency's employees does not interfere with the school district's use of schoolbuses for school transportation purposes.

(d) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the federal, state, or local governmental agency.

(e) Mechanical condition of a schoolbus during operation by the federal, state, or local governmental agency is maintained so as to meet or exceed those regulations promulgated by the Department of Education pursuant to Section 39831 governing the operation of schoolbuses.

(f) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by the federal, state, or local governmental agency, which records are to be made available to the Superintendent of Public Instruction in connection with the annual report of transportation expense made by the school district. The Superintendent of Public Instruction, in accordance with Section 39835, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting employees of a federal, state, or local governmental agency pursuant to this section.

39840.5. The governing board of any school district may enter into a contract under the terms of which the school district grants the use of any schoolbus which is owned or leased by the school district to senior citizens' groups for the purpose of providing transportation to members of senior citizens' groups; provided that:

(a) No public transportation is available within a reasonable distance to the senior citizens' group.

(b) Senior citizens of any such group reside in the territorial limits of the school district providing the transportation.

(c) The transportation of the senior citizens is limited to transportation within the State of California and does not interfere with the school district's use of schoolbuses for school transportation purposes.

(d) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by a senior citizens' group.

(e) Mechanical condition of a schoolbus during operation by a senior citizens' group is maintained so as to meet or exceed those regulations promulgated by the Department of Education pursuant to Section 39831 governing the operation of schoolbuses.

(f) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by a senior citizens' group, which records are to be made available to the Superintendent of Public Instruction in connection with the annual report of transportation expense made by the school district. The Superintendent of Public Instruction, in accordance with Section 39835, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting senior citizens pursuant to this section.

(g) The total cost of the contract to the senior citizens' group is not less than the cost to the district of providing such transportation services.

39841. The following requirements shall be included in any agreement entered into between a school district and a publicly owned transit system under which the school district grants the use of any schoolbus which is owned or leased by it to the transit system for public transportation purposes:

(a) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the transit system.

(b) Mechanical condition of a schoolbus during operation by the transit system is maintained so as to meet or exceed those regulations promulgated by the State Board of Education pursuant to Section 39831 governing the operation of schoolbuses.

(c) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by the transit system.

#### Article 4. Transportation, Special Activities

39860. The governing board of any school district may contract for the transportation of pupils attending schools within the district to and from any exposition or fair, school activities, or other activities which the governing board determines to be for the benefit of the pupils, in this state, and may pay for the transportation out of any funds of the district available for the purpose.

#### Article 5. Cafeterias—Establishment and Use

39870. The term “cafeteria” as used in this code is considered synonymous with the term “food service.”

39871. The governing board of any school district may establish cafeterias in the schools under its jurisdiction whenever in its judgment it is advisable to do so.

39872. Food shall not be sold at any cafeteria operated by a school district to anyone except pupils and employees of any school district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act; and provided further, that the governing board of any school district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section.

39873. Perishable foodstuffs and seasonal commodities needed in the operation of cafeterias may be purchased by the school district in accordance with rules and regulations for such purchase adopted by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

39874. The food served shall be sold to the patrons of the cafeterias at such a price as will pay the cost of maintaining the cafeterias, exclusive of the costs made a charge against the funds of the school district by this chapter, and items made a charge against the funds of the school district by resolution of the governing board under authority of this chapter.

## Article 6. Cafeterias, Funds and Accounts

39890. Money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of the "cafeteria fund" of the particular school district.

39891. The cafeteria fund shall be used only for such expenditures as are necessary for the operation of school cafeterias. However, when the governing board deems it necessary, it may make expenditures from the cafeteria fund for the lease or purchase of additional cafeteria equipment for the central food processing plant, and of vending machines and their installation and housing.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.

39892. The governing board of any school district may establish an account for each cafeteria established in a school of the district, or for all cafeterias established in the schools of the district, in one or more banks. The account shall be known as "The Cafeteria Account of (insert name of district) District." If the account is established for one of several cafeterias, it shall be known as "The Cafeteria Account of the (insert name of school) School of (insert name of district) District." All receipts of the cafeteria, or cafeterias, as the case may be, derived from the sale of food shall be deposited in the account and shall be expended only for the maintenance of the cafeteria, or cafeterias, exclusive of items made a charge against the funds of the school district by this chapter, and items made a charge against the funds of the school district by resolution of the governing board under authority of this chapter.

39893. The governing board of the district shall designate an employee or employees of the district to have custody of the account or accounts, who shall be responsible for the payment into the account or accounts of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes.

39894. Upon the order of the governing board of any district having a cafeteria fund in the county treasury and establishing an account, or accounts, the county treasurer shall deposit the money in the fund to the account, or accounts, and shall notify the county auditor and county or city and county superintendent of schools of his action. If the money is to be deposited in more than one account, the governing board of the district shall designate the amount to be placed in each account.

## Article 7. Cafeterias, Allocation of Charges

39900. The cost of housing and equipping cafeterias is a charge against the funds of the school district. However, when the governing board of a school district deems it necessary, the governing board may make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds. If school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, the governing board may at any time within five years after such expenditure reimburse school district funds from cafeteria funds.

The governing board of a school district may by resolution make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also make the cost of the construction, alteration, or improvement of a central food processing plant and the installation of additional cafeteria equipment a charge against cafeteria funds. If district funds are expended for these purposes, the governing board also may at any time within five years after such expenditure reimburse district funds from cafeteria funds.

39901. The governing board of any school district operating school cafeterias may establish and maintain a cafeteria fund reserve for the replacement of wornout or obsolete cafeteria equipment, to be known as the accumulative cafeteria equipment replacement reserve. The funds for this reserve are to be derived from the sales of food in the school cafeterias in an amount to be determined by the governing board and may be accumulated from year to year until expended for this purpose.

Each school district maintaining an accumulative cafeteria equipment replacement reserve may include in the annual cafeteria fund budget of the district an amount to be allocated to said reserve, as determined by the governing board, which amount shall be a charge against the operations of the cafeterias for that year as a depreciation cost for wear and tear on cafeteria equipment. The cost of replacing cafeteria equipment may be charged to the accumulative cafeteria equipment reserve of the cafeteria fund of the district.

Nothing in this section shall prohibit any school district from replacing cafeteria equipment from district funds as provided in Section 39900.

39902. The governing board of a school district shall employ persons for food service positions as a part of the classified service. Wages, salaries and benefits including employer retirement contributions for all food service personnel shall be paid from the general fund of the school district. Costs of wages, salaries and benefits including employer retirement contributions and other purposes classed as food service shall be excluded from the definition of "current expense of education" as defined in Section 41372. The governing board may, at any time, order reimbursement from the cafeteria fund or the cafeteria account to the general fund of the district for payments under this section in such amounts as it prescribes but not to exceed food service employee salary, wage and benefit costs then incurred or anticipated.

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or the cafeteria account not later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or the cafeteria account shall be considered expenses of the cafeteria fund or the cafeteria account, as the case may be, and only those payments made from the general fund which are not reimbursed from the cafeteria fund or the cafeteria account shall be considered expenses of the general fund.

Accounting for such transactions shall be as prescribed in Section 41010.

## CHAPTER 6. MISCELLANEOUS PROVISIONS

### Article 1. Apparatus and Supplies

40000. The county board of education shall on or before the first day of February of each year establish rules and regulations under which any school district in the county shall, except as provided in Section 40002, purchase standard school supplies and equipment through the county superintendent of schools, or when so directed by him, through a county purchasing agent.

When the county superintendent of schools purchases standard school supplies without directing their purchase through the county purchasing agent or other county, city, or school district agent or agency, he shall make such purchase from the lowest responsible bidder who shall give such security as the county superintendent of schools requires, or else reject all bids. For the purpose of securing bids, the county superintendent of schools shall publish at least once a week for two weeks in a newspaper of general circulation published in the county, a notice calling for bids stating where the list and specifications of standard school supplies and equipment to be furnished may be obtained and the time when, and the place where bids will be opened.

The county board of education shall list as standard school supplies and equipment such supplies and equipment as can be

advantageously purchased in quantity. The list of standard school supplies shall be accompanied by a table of specifications giving the minimum grade, quality, substance, or other standard required for the purchase of each item listed.

The cost of advertising for bids and the cost of preparation of a table of specifications shall be paid from the county general fund.

40001. The governing board of each school district shall, except as otherwise provided in this code, purchase school furniture, including musical instruments, and apparatus, and such other articles as are necessary for the use of schools, and may, in its discretion, purchase uniforms and other regalia for the use of school bands, orchestras and choirs, and including uniforms and equipment necessary for the use of athletic teams. The provisions of Article 1 of Chapter 4 of Division 5 of Title 1 of the Government Code shall not apply to the purchase of musical instruments made pursuant to this section. Any such articles purchased shall always remain the property of the school district purchasing them. Only such books, apparatus, uniforms, and equipment shall be purchased by the governing board of an elementary school district, if the board is not a city board of education, as have been adopted by the county board of education having jurisdiction over the district.

40002. (a) Except as provided in subdivision (b), the governing board of any school district may purchase any necessary school supplies and equipment, including standard school supplies and equipment listed by the county board of education, in the manner provided in this chapter, or the governing board of any school district may purchase such supplies and equipment directly from the vendor. Such direct purchase may be as a single district or two or more districts acting as a cooperative.

(b) An elementary school district having an average daily attendance of less than 2,500 during the preceding fiscal year may purchase standard school supplies and equipment directly from a vendor only by means of a purchasing cooperative representing a total average daily attendance in excess of 2,500 and then only if the county superintendent of schools has on file a document certifying the school district's membership in such a cooperative.

40003. The clerk of each district shall, under the direction of the board of trustees, provide all school supplies authorized by this chapter.

40004. The county superintendent of schools, when so requested, shall act as agent for the purchase of supplies for the city and high school districts of his county.

40005. The county superintendent may arrange with a county purchasing agent for the purchase of standard school supplies and equipment in accordance with the regulations of the county board of education and the purchasing agent shall act in such capacity when so authorized.

40006. The cost of maintaining schoolbuses may be paid out of any funds of the district except funds derived from the sale of bonds

and funds required by law to be set aside for teachers' salaries.

40007. The superintendent of schools of each county may transfer at the beginning of any school year from the funds of the school districts of the county which elect to purchase equipment and supplies in accordance with Section 40000, to the school supply revolving fund, which fund is continued in existence, a sum not to exceed 10 percent of the amount to be received during the school year by each district from the State School Fund.

40008. If in any county a school supply revolving fund is not established, payment for school supplies and equipment purchased through the county superintendent of schools or through the county purchasing agent shall be made by order of the governing board of the school district purchasing them, in the same manner as other payments are made from school district funds.

40009. The governing board of each school district throughout the state shall provide for each schoolhouse under its control, a suitable Flag of the United States, which shall be hoisted above each schoolhouse during all school sessions and on school holidays, weather permitting.

The governing board of each school district shall provide smaller and suitable United States Flags to be displayed in each schoolroom at all times during the school sessions.

The governing board of each school district shall enforce this section.

40010. If a board of school trustees of any school district refuses or neglects to purchase and display United States Flags as provided in Sections 40009 and 40010, the superintendent of schools of the county shall purchase the flags and direct the teacher or teachers to display the flags as provided by law.

The superintendent of schools shall draw his warrant on the current expense fund of the district in payment of the cost of such flags as he finds necessary to purchase.

40011. Writing and drawing paper, pens, inks, blackboards, blackboard erasers, crayons, lead pencils, and other necessary supplies for the use of the schools, shall be furnished under direction of the governing boards of the school districts.

40012. Charges for supplies shall be audited and paid in the same manner as other claims against the county school fund of the districts.

40013. The governing board of a school district may pay in advance for postage stamps, permits and services provided by other governmental agencies, subscriptions to, or purchases or rentals of, newspapers, magazines, periodicals, single copies of books, films, filmstrips, recordings, and other publications, and for the maintenance of equipment under agreements not exceeding one year for the district and the schools thereof when such action will result in a decrease in the cost to the district or which cannot be secured without payment in advance.

40014. The governing board of a school district may rent or lease personal property needed for district purposes, including the renting

or leasing of caps and gowns for seniors who participate in high school graduation ceremonies.

40015. The governing board of any school district may lend school band instruments, music, uniforms, and other regalia to persons who are or have been, during the prior school year, members of the school band for use by them on excursions to foreign countries whether or not such an excursion is sanctioned by the governing board.

The governing board may require the borrower to make a deposit or take other measures to insure that the items borrowed will be returned in usable condition.

## Article 2. Use of School Property

40040. The governing board of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter.

The governing board of any school district may grant the use of school buildings or grounds to any church or religious organization for the conduct of religious services for temporary periods where such church or organization has no suitable meetingplace for the conduct of such services upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter. Notwithstanding the provisions of Section 40053, the governing board shall charge the church or religious organization using such property for the conduct of religious services an amount at least sufficient to pay the cost to the district of supplies, utilities and salaries paid school district employees necessitated by such use of such property.

40041. No use shall be inconsistent with the use of the buildings or grounds for school purposes, or interfere with the regular conduct of school work.

40042. No use shall be granted in such a manner as to constitute a monopoly for the benefit of any person or organization.

40043. No privilege of using the buildings or grounds shall be granted for a period exceeding one year for school districts. The privilege is renewable and revocable in the discretion of the board at any time.

40044. Notwithstanding the provisions of Sections 40042 and 40043 or any other provisions of law, when a nonpartisan charitable organization organized under the laws of this state has constructed or will construct, subject to the provisions of Article 3 (commencing with Section 39140) of Chapter 2 of this part, a school athletic and youth center facility at no cost to a school district, upon a school-district-owned site to be owned by and for the benefit of the school occupying such site, the governing board of the school district, in accepting the donation and prescribing the conditions and

restrictions with respect thereto, may permit the general use of said facility under this article for specified supervised recreational activities which are sponsored by or conducted by the donor organization, and may also permit the donor organization to use the facility for such purpose at such times when the facility is not being used by the school district for the educational program and related school activities of the designated beneficiary school, unless the use and occupancy of the facility by the donor organization would otherwise interfere with the regular conduct of such school. Any such use granted to the donor organization shall, however, immediately and forever terminate if the donor organization denies the use of the facility to any person because of the race, religion, creed, national origin, ancestry, or sex of such person.

This section shall apply only to elementary school districts in San Diego County which had an average daily attendance of 425 or less during the 1970-71 school year, and which, during the 1970-71 school year, had a modified assessed valuation per pupil in average daily attendance of between forty-five thousand dollars (\$45,000) and fifty thousand dollars (\$50,000).

40045. The governing board of any school district may allow the use of school buildings, facilities, grounds, and equipment for child care or day care programs established in cooperation with any city to provide supervision and activities for children of preschool and elementary school age. The governing board may also provide such supervisory, consultant, custodial, clerical, or other services as it deems advisable with respect to the need of such program and the service to the community.

40046. The governing board of any school district may grant the use of school buildings, grounds, and equipment without charge to public agencies for the purpose of holding examinations for the selection of personnel, and for the instruction of precinct board members.

40047. The governing board of any school district may grant the use of school buildings, grounds and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare, and may cooperate with such agencies in furnishing and maintaining such services as the governing board may deem necessary to meet the needs of the community.

40048. There is a civic center at each and every public school building and grounds within the state where the citizens, parent-teachers' association, Camp Fire Girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment appertain to the educational, political, economic,

artistic, and moral interests of the citizens of the communities in which they reside. Governing boards of the school districts may authorize the use, by such citizens and organizations of any other properties under their control, for supervised recreational activities.

40049. The use of any public schoolhouse and grounds for any meeting is subject to such reasonable rules and regulations as the governing board of the district prescribes and shall in nowise interfere with the use and occupancy of the public schoolhouse and grounds, as is required for the purposes of the public schools of the state.

40050. The management, direction, and control of the civic center is vested in the governing board of the school district.

40051. The governing board of the school district shall make all needful rules and regulations for conducting the civic meetings and for such recreational activities as are provided for in this chapter and which aid, assist, and lend encouragement to the activities.

40052. The governing board of any school district may appoint a person who shall have charge of the grounds, preserve order, protect the school property, plan, promote, and supervise recreational activities, and do all things necessary in the capacity of a representative of the board.

40053. The use of schoolhouses, property, and grounds pursuant to this chapter shall be granted free, except as otherwise provided by Section 40054, to public agencies, or to senior citizens' organizations or to other organizations, clubs, or associations organized for cultural activities (such as folk and square dancing) and general character building or welfare purposes.

For any other use of schoolhouses, property, and grounds pursuant to this chapter, including uses for which charges may be made under Section 40054, the governing board of any school district may charge not to exceed an amount sufficient to pay the cost to the district of supplies, utilities, and salaries paid school district employees necessitated by such use of schoolhouses, property, and grounds of the district.

40054. In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the pupils of the district or for charitable purposes a charge shall be made for the use of the schoolhouses, property, and ground which charge shall not be less than the fair rental value for the use of such schoolhouses, property and grounds, as determined by the governing board of the district.

The governing board may, however, permit such use, without charge, by organizations, clubs, or associations organized for senior citizens and for cultural activities and general character building or welfare purposes, when membership dues or contributions solely for the support of the organization, club, or association, or the advancement of its cultural, character building or welfare work, are accepted.

40055. Lighting, heating, janitor service, and the services of the person when needed, and other necessary expenses, in connection with the use of public school buildings and grounds pursuant to this chapter shall be provided for out of the county or special school funds of the respective school districts in the same manner and by the same authority as similar services are provided for.

40056. Any use, by any individual, society, group, or organization for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States or of the state by force, violence, or other unlawful means shall not be permitted or suffered.

Any individual, society, group, or organization which commits any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government by force, violence or other unlawful means while using school property pursuant to the provisions of this chapter is guilty of a misdemeanor.

40057. No governing board of a school district shall grant the use of any school property to any person or organization for any use in violation of Section 40056.

For the purpose of determination by such governing board whether or not any individual, society, group or organization applying for the use of such school property intends to violate Section 40056, the governing board shall require the making and delivery to such governing board, by such applicant of a written statement of information in the following form:

#### STATEMENT OF INFORMATION

The undersigned states that, to the best of his knowledge, the school property for use of which application is hereby made will not be used for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States by force, violence or other unlawful means;

That \_\_\_\_\_, the organization on whose behalf he is making application for use of school property, does not, to the best of his knowledge, advocate the overthrow of the government of the United States or of the State of California by force, violence, or other unlawful means, and that, to the best of his knowledge, it is not a Communist action organization or Communist front organization required by law to be registered with the Attorney General of the United States. This statement is made under the penalties of perjury.

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(Signature)

The school board may require the furnishing of such additional information as it deems necessary to make the determination that the use of school property for which application is made would not violate Section 40056 of the Education Code.

Any person applying for the use of school property on behalf of any society, group or organization shall be a member of such applicant group and, unless he is an officer of such group, must present written authorization from such applicant group to make such application.

The governing board of any school district may, in its discretion, consider any statement of information or written authorization made pursuant to the requirements of this section as being continuing in effect for the purposes of this section for the period of one year from the date of such statement of information or written authorization.

40058. Written statements of information as required by Section 40057 need not be under oath, but shall contain a written declaration that they are made under the penalties of perjury, and any person so signing such statements who willfully states therein as true any material matter which he knows to be false, is subject to the penalties prescribed for perjury in the Penal Code.

### Article 3. Farm Labor Driver Training Course

(Article 3 added by Stats. 1976, Ch. 1011)

40070. The Department of Education shall develop a course for the training of farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for an examination for certification pursuant to Section 12519 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing such a course.

The department shall train the necessary instructional personnel to conduct the course, shall furnish all instructional and training materials used in the course, and shall assure that the course is properly taught and conducted.

The department may enter into agreements with any public agency in order to implement the provisions of this section.

(Added by Stats. 1976, Ch. 1011.)

## PART 24. SCHOOL FINANCE

### CHAPTER 1. STATE FINANCIAL MANAGEMENT AND CONTROL

#### Article 1. Moneys Received by School Districts

41000. No assessor, tax collector, city, city and county, or county treasurer shall charge or receive any fees or compensation for assessing, collecting, receiving, keeping, or disbursing any school moneys, but the whole moneys collected shall be paid to the city, city and county, or county treasurer.

41001. The governing board of every school district shall pay all moneys received or collected by it from any source and all moneys apportioned to it from taxes levied and collected under the authority of city councils for school purposes, into the county treasury to be placed to the credit of the proper fund of its district. All money

collected by the city council or other governing body of any municipality from taxes levied for school purposes when received shall be paid into the county treasury to the credit of the school district for the schools of which the taxes were levied. All deposits and payments required by this section shall be made daily, unless the county superintendent of schools authorizes them to be made weekly or otherwise, but in no event less frequently than monthly.

41002. All moneys received by any school district or paid into the county or city and county treasury to the credit of the district from state apportionments, county, district or municipal taxes, other than moneys required to be placed in a special reserve fund, a building fund or bond interest and sinking fund, and moneys authorized to be paid into a cafeteria fund or account, or school farm account, or moneys received for the rental or lease of real property which by resolution of the governing board may be deposited in any authorized fund of the district, shall be deposited in the general fund of the district, which fund is continued in existence in each county and city and county treasury.

Nothing in this section shall be construed as discontinuing, nor as affecting the disposition of moneys in emergency cash funds, in revolving funds for warehouse stock, in cafeteria funds or accounts, or school farm account, in special reserve funds, in building funds, or in bond interest and sinking funds created or established under this code.

41003. The governing board of a school district may, by resolution, specify the particular fund or funds maintained for the district into which shall be deposited moneys received for the rental or lease of real property.

## Article 2. Accounting Regulations, Budget Controls and Audits

41010. The accounting system used to record the financial affairs of any school district shall be in accordance with the definitions, instructions, and procedures published in the California School Accounting Manual as approved by the State Board of Education and furnished by the Superintendent of Public Instruction. No accounting manual so approved shall expressly or by implication affect the content of any educational program or objective, except as otherwise specifically provided for by this code. The Legislature hereby finds that such content shall be best determined by those involved in the administration of educational programs, including school district governing boards, local administrators, teachers, students, and parents.

41011. The accounting system used to record the financial affairs of any school district shall be designed to provide separate recording and clear distinction between expenditures for salaries of classroom teachers employed by the district and expenditures for other purposes of the district.

As used in this section "salaries of classroom teachers" means:

- (a) The salary paid to each teacher employed by the district

whose duties require that the full time for which the teacher is employed be devoted to the teaching of pupils of the district.

(b) The portion of the salary of each teacher whose duties require that a part, but not all, of the full time for which the teacher is employed be devoted to the teaching of pupils of the district, which is equal to the portion of such full time actually devoted by the teacher to teaching pupils of the district.

(c) The salary paid to each instructional aide employed by the district, any portion of whose duties are required to be performed under the supervision of a classroom teacher.

As used in this section a "teacher" means an employee of the district employed in a position requiring certification qualifications and whose duties require him to teach pupils of the district for at least one full instructional period each schoolday for which the employee is employed. In the case of a teacher employed to teach in an elementary school, an instructional period is a period of not less than 20 minutes. In the case of a teacher employed to teach in a secondary school, an instructional period is the number of minutes equal to the number of minutes of the regular academic period in the junior high school, or high school, in which the teacher is employed to teach.

41012. For purposes of determining allowances pursuant to Chapter 8 (commencing with Section 52200) of Part 28 of Division 4, and Chapter 3 (commencing with Section 56500), Chapter 4 (commencing with Section 56600), and Chapter 5 (commencing with Section 56700) of Part 30 of Division 4 of this title, the Superintendent of Public Instruction shall require the use of a uniform cost accounting procedure, as set forth in the California School Accounting Manual.

41013. For the purpose of achieving clarity and uniformity in the budgeting and reporting of school district expenditures by funds, whenever certain expenditures for the children's center program, the development center for handicapped minors program, or any similar program, except the food service program, for which a special fund is required by law, are: (1) authorized by law and by action of the governing board to be paid from the general fund of the school district, or (2) required by law to be paid from the general fund of the school district, the amount estimated or actually required to meet these expenditures shall be transferred or paid from the general fund to the children's center fund, the development center for handicapped minors fund, or other special fund as appropriate.

Any amount transferred or paid in excess of the amount actually required shall be refunded to the general fund.

The Superintendent of Public Instruction is hereby authorized to adopt rules and regulations governing the method of accounting for said payments and transfers.

41014. Excepting only as provided in Article 1 (commencing with Section 41000) and this article, all constitutional and statutory limitations on the purposes for which moneys derived from particular specified sources may be expended, and all statutory

provisions relative to the establishment of specified school district funds, shall be administered by county superintendents of schools, or in the discretion of county auditors, by county superintendents of schools and county auditors by means of budgetary accounting and not by the establishment and maintenance in the county or city and county treasury of special school district funds.

41015. The governing board of any school district which, on or after May 28, 1943, has funds in a special reserve fund of the district or any surplus moneys not required for the immediate necessities of the district, is hereby authorized to invest all or any part of such funds in bonds, notes, bills, certificates, debentures or other obligations, issued by the United States of America, or obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee.

Any bonds, notes, bills or certificates, debentures or other obligations, so purchased may be sold and the proceeds reinvested in similar bonds, notes, bills or certificates, debentures or other obligations, of the United States of America, its agencies, or its instrumentalities, or placed in the county treasury for credit to the fund of the district from which purchased. This section shall not be construed as in any way limiting or modifying the application of any other law providing for or authorizing the investment of any funds of a school district. Notwithstanding any other provision of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the interest and sinking fund of the district to meet the principal and interest falling due on such bonds.

41016. The governing board of a school district which has made an investment pursuant to the authority of Section 41015 may deposit such security for safekeeping with a state or national bank or trust company located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within the state, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System. The governing board shall take from such bank a receipt for the security so deposited. The county treasurer with whom such funds if uninvested would be deposited shall not be responsible for securities delivered to and receipted for by a bank under the authority of this section until they are withdrawn from the bank by said treasurer.

41017. The governing board of any school district may authorize any school district governed by it to deposit in one or more bank accounts as clearing accounts any miscellaneous receipts, including receipts from the sale of property or materials pursuant to Section 39526 or 39527, received or collected by the school district, and may provide for the withdrawals from such accounts. All moneys in any such bank account shall be paid into the county treasury within the time periods specified pursuant to Section 41001. Cashiers' checks, certified checks, and money placed in the custody of the school district as security that a bidder will execute or faithfully perform a contract, if awarded to him, may be deposited in any such bank account but shall not be paid into the county treasury to the credit of the school district unless forfeited or unless unclaimed by the bidder for a period of 12 months.

Such bank accounts shall not be subject to the deposit of funds provisions of Article 2, Chapter 4, Part 1, Division 2, Title 5 of the Government Code, except to the extent provided by Section 53679 of the Government Code.

41018. The governing board of any school district having an average daily attendance of 100,000 or more may deposit in one or more bank accounts moneys received from the temporary rental of property acquired by a school district pending construction of school facilities on such property. The moneys may be held in such accounts for a period of not to exceed three years and may be used to pay any proper costs incurred as a result of such temporary rental, provided that when such moneys are not being used to pay such costs they may be invested, along with all other moneys deposited in clearing accounts, pursuant to Section 41015 as determined by the governing board of any such school district.

41019. The governing board of any school district which maintains clearing accounts, cafeteria accounts, and other accounts in a bank or banks, pursuant to Section 41017 or 39892, or pursuant to any other provisions of law, may contract and pay for the expenses of transporting money to and from such bank or banks.

41020. Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each district shall either provide for an audit of the books and accounts of the district or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a school district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the

county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy. Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the Department of Education and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The Superintendent of Public Instruction shall make any adjustments necessary in future apportionments of state funds, to correct any discrepancies revealed by such audit reports under the provisions of Section 41341.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance may make arrangements for the audit and the cost of such audit shall be paid from school district funds or the county school service fund as the case may be.

The Department of Finance with the cooperation of the Department of Education shall prescribe the statements and other information to be included in the audit reports filed with the state. The Department of Finance may make such audits, surveys and reports, and may develop suggested procedures for carrying out the purposes of this section, as in the judgment of the department will serve the best interests of the state.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any school district.

41021. The governing board of every school district shall require each employee of the district, whose duty it is to handle funds of the district, and may, in its discretion, require employees of the district, whose duty it is to handle property of the district, to be bonded under a suitable bond indemnifying the district against loss. Such bond may be a name schedule bond, schedule position bond or blanket bond, and shall be in such amount and type as the board shall consider necessary and desirable. The boards shall pay from the funds of the district the cost of the premium necessary to provide the bond.

41022. Except as provided in this section, any election held for the purpose permitting a school district to exceed the expenditure of school district funds fixed by the Constitution or by the statutes of the state shall be called, held, and conducted as nearly as possible as are elections for the issuance of school district bonds.

The notice of election shall contain only the following:

- (a) The time and place or places of holding the election.
- (b) The names of the officers appointed to conduct the election.
- (c) The hours during the day in which the polls will be open.
- (d) The amount by which it is proposed to increase the expenditures of the district during the school year.
- (e) The total amount of proposed expenditures of the district, including the proposed increase, for the school year.

The ballots used at the election shall contain the following language: "Shall the total authorized expenditures of the district be increased from \_\_\_\_\_ (naming the sum) to \_\_\_\_\_ (naming the sum) for the school year \_\_\_\_\_ (naming the school year)?"

The hours during which the polls at the election are open shall be fixed in accordance with the provisions of Section 14206 of the Elections Code.

### Article 3. Foundation Trust Fund

41030. Any school district which receives bequests or gifts of money which is surplus money not required for the immediate necessities of the district may invest it pursuant to the provisions of this article.

41031. Any gift or bequest of money which is to be invested pursuant to this article shall be placed in a district special fund in the county treasury, to be designated as the Foundation Trust Fund. If the gift or bequest of money is required to be used for specific purposes according to the terms of the gift or bequest, the governing board shall place the money in a separate account in the Foundation Trust Fund, and may by resolution designate the separate account by the name that it shall be known, including in its name the term "Foundation Trust Account."

41032. The money deposited in a separate account in the Foundation Trust Fund shall be invested pursuant to this article or expended only for the purposes of the gift or bequest.

41033. The governing board of a school district which has placed funds in the Foundation Trust Fund is hereby authorized to invest all or any part of such funds as it deems wise and expedient as follows:

(a) In the securities, warrants, or instruments of indebtedness specified by Section 53601 of the Government Code.

(b) In corporate securities other than corporate shares, provided that the amount of investment under this subdivision shall not exceed 50 percent of the amount invested under subdivision (a).

Any security, warrant, or instrument of indebtedness purchased pursuant to this section may be sold and the proceeds reinvested in similar securities, warrants, or instruments, or placed in the Foundation Trust Fund.

41034. The governing board of a school district may deposit such securities, warrants, or instruments purchased under Section 41033 for safekeeping pursuant to Section 41016.

41035. The governing board of a school district which places

money in the Foundation Trust Fund pursuant to this article shall appoint an advisory committee equal in number to the number of members of the governing board. The committee shall be composed of qualified electors of the district and may include members of the governing board. Members of the committee shall serve without compensation.

41036. The advisory committee shall advise the governing board as to the investments to be made pursuant to this article.

41037. The governing board shall adopt rules and regulations to effectuate the purposes of this article, not inconsistent with law.

41038. Except as may be otherwise provided in this article, other provisions of this chapter shall be applicable to the money placed in the Foundation Trust Fund pursuant to this article.

#### Article 4. Miscellaneous Provisions

41050. "County" or "counties" includes a city and county as specified in Section 92.

41052. Whenever the assessed valuation of a school district is reduced as a result of the operation of Section 992 of the Revenue and Taxation Code, the school district shall receive replacement revenue from the state for the loss of revenue to the district.

A school district shall be eligible for replacement revenue when the assessed valuation exempted as the result of the operation of Section 992 of the Revenue and Taxation Code is 30 percent or more of the district's assessed valuation in the 1970-1971 fiscal year. A school district shall be ineligible for replacement revenue when its assessed valuation has increased 250 percent or more over the 1970-1971 fiscal year assessed valuation.

41053. Whenever reference is made to "adults" in this division in the context of apportionments to school districts or county superintendents of schools, such reference shall be deemed to refer to persons 21 years of age or over notwithstanding any other provision of law.

Whenever reference is made to "minors" in this division in the context of apportionments to school districts or county superintendents of schools, such reference shall be deemed to refer to persons under 21 years of age notwithstanding Section 25 of the Civil Code or any other provision of law.

#### CHAPTER 2. PROPERTY VALUATIONS FOR ALLOCATION TO SCHOOL DISTRICTS

41200. On the basis of computations made by the State Board of Equalization, the secretary of that board shall certify on or before October 1st of each year to the Superintendent of Public Instruction the factor, carried to three decimal places, by which the total assessed value of all tangible property on the current local roll of each county must be modified to conform to the statewide average assessment level.

41201. Any state department, board, or agency which allocates funds to any school district on the basis of the assessed valuation of property within the district, or which makes any computation on this basis for school building fund repayment purposes, shall average the factor certified for the current year under Section 41200 for the local roll of the county in which the district is located with the factors so certified for the two immediately preceding years; provided, that, in the event that an assessment ratio announced by a county assessor for the 1970-71 tax year is less than 25 percent, the factor for such county for such year shall be multiplied by a fraction in which the announced ratio is the numerator and 25 percent is the denominator before averaging the factor of that county for 1970-71 with the 1971-72 and 1972-73 factors. The department, board, or agency shall then modify that part of the valuation of the district shown on the local roll by application of this three-year-average factor carried to three decimal places. If a district is located in more than one county, this modification shall be made by applying the average factor appropriate for the assessed value of the property upon the local roll of each county within which the district is located.

41202. Notwithstanding any other provision of this code, whenever the assessed valuation of the district has been modified upward under Section 41201, measures to provide additional local tax revenues to provide the funds required to offset the decrease in school equalization aid resulting from such modification of the assessed value shall be undertaken pursuant to Section 41203.

41203. Whenever it appears that a district's state equalization aid and supplementary support will be less than they would be if no modification of the district's assessed valuation were required under Section 41201, the governing board of the district shall estimate the amount of the difference and shall certify the amount to the county superintendent of schools.

The county superintendent of schools shall certify to the county auditor of the county in which the districts are included the amounts required to offset such decrease of equalization aid, or supplemental support, or both, in all the districts under his jurisdiction. The county auditor shall certify such amounts to the county board of supervisors who shall, at the time other taxes are levied, levy a tax upon all the assessed valuation of the county sufficient to provide the total of the amounts certified. Upon the collection of such taxes the county auditor shall pay to each school district the amount certified as required to offset the decrease in equalization aid or supplemental support.

41204. Notwithstanding any provision of this chapter or any other provision of law to the contrary, the certifications required by Section 41203 may be made at any time prior to the time county and district taxes are required to be levied.

Notwithstanding the provisions of Sections 42600 and 42610 or any other provision of this code to the contrary, the governing board of

a school district may budget and use the amounts paid to the school district collected from any such tax levied pursuant to Section 41203.

41205. If, for any reason, the tax required by Section 41203 to be levied and collected during a fiscal year to offset decreases in state equalization aid and supplemental support is not so levied and collected during the fiscal year, the same shall be levied and collected during the next succeeding fiscal year. The county superintendent of schools and the county auditor shall make the certifications of the amount to be raised by such tax in the manner prescribed by Section 41203, and the board of supervisors shall, in such succeeding fiscal year, at the time other taxes are levied, levy a tax on all the assessed valuation of the county sufficient to provide the total of the amounts certified, and the same shall be paid to the affected school districts as otherwise required by Section 41203.

41206. The Legislature hereby declares that its sole motive in enacting this chapter is to provide a reasonable and equitable method for ascertaining the value of property located within school districts for use in connection with the administration of state laws providing for the allocation of state funds to such districts for school purposes on the basis of value. The Legislature hereby further declares that in enacting this chapter it has no intention to affect in any way, whether directly or indirectly, any determination of the assessed value of property for tax purposes; and that it has no intention by such enactment to modify any phase or aspect of the process of property taxation in any respect whatsoever, except to the limited extent necessary for tax levy adjustment purposes in accordance with this chapter.

### CHAPTER 3. STATE SCHOOL FUNDS

#### Article 1. Appropriations, Sources, Conditions, Amounts of Support per Average Daily Attendance

41300. The amount transferred to Section A of the State School Fund pursuant to subdivision (a) of Section 14002 shall be expended for basic aid, equalization aid, allowances for adults, and allowances to the county school tuition funds to be apportioned on account of average daily attendance.

41301. The amount transferred to Section A of the State School Fund pursuant to subdivision (b) of Section 14002 and Section 14004 shall be expended in accordance with the following schedule:

(a) Twenty-one dollars and fifty cents (\$21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the preceding school year had less than 1,501 units of average daily attendance, but not to exceed an amount equal to

seventy-nine cents (\$.79) multiplied by the average daily attendance credited during the preceding fiscal year to all elementary, high, and unified school districts and to all county superintendents of schools in the state, for allowance to county school service funds pursuant to subdivision (a) of Section 14054.

(b) Seven dollars and eighteen cents (\$7.18) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, during the preceding school year for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of this part.

(c) Twenty-four dollars and sixty-eight cents (\$24.68) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, during the preceding school year, for the purposes of Article 3 (commencing with Section 56030) of Chapter 1, Chapter 3 (commencing with Section 56500), Chapter 5 (commencing with Section 56700) of Part 30 of Division 4 of this title, and Sections 41863, 41866, 41892, and 41897.

(d) Three dollars and forty-four cents (\$3.44) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state during the preceding school year for allowances to county school service funds pursuant to subdivision (b) of Section 14054.

(e) Two dollars and seventy-three cents (\$2.73) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for allowances to school districts for the purposes of Section 52205.

(f) One hundred sixty dollars and ninety-nine cents (\$160.99) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state during the preceding school year for basic aid, equalization aid, allowances for adults, and allowances to the county school tuition funds to be apportioned on account of average daily attendance. The amount expended pursuant to this subdivision shall be annually revised to reflect the adjustment prescribed by subdivision (e) of Section 14002.

(g) Thirteen dollars and seventy-five cents (\$13.75) multiplied by the average daily attendance during the preceding school year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for purposes of Chapter 4 (commencing with Section 56600) of Part 30 of Division 4 of this title.

41302. Notwithstanding Section 41301, there shall be expended for purposes of making the allowances prescribed by Section 56360 in the 1975-76 fiscal year, the following amounts:

(a) Nine million dollars (\$9,000,000), or so much thereof as may be

necessary, to be derived from funds which would otherwise be expended under subdivision (c) of Section 41301.

(b) Five million dollars (\$5,000,000), or so much thereof as may be necessary, to be derived from funds which would otherwise be expended under subdivision (g) of Section 41301.

(c) Ten million dollars (\$10,000,000) from funds appropriated therefor by the Legislature.

(d) In the event federal aid is provided to increase the amount in subdivision (c) by replacing or augmenting the state funds, the amounts which are to be provided pursuant to subdivisions (a) and (b) shall be increased proportionately so that a greater number of individuals with exceptional needs may be included in the alternate plan to better meet the educational requirements of these individuals.

(e) All state funds authorized to establish or maintain programs authorized under Chapter 2 (commencing with Section 56300) of Part 30 of Division 4 of this title shall, for the 1976-77 and 1977-78 fiscal years, be included as a separate item in the Budget Act for each such fiscal year and no state funds other than those so appropriated shall be expended for such programs.

41303. The Superintendent of Public Instruction shall report to the Controller, on or before the 25th day of September of each year, the total average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, community college and adult schools in the state and to county school tuition funds.

41304. (a) There is appropriated annually from the Driver Training Penalty Assessment Fund to the General Fund in the State Treasury and from the General Fund to the department a sum as necessary to establish and maintain a unit for driver instruction within the Department of Education as set forth in Section 41904.

(b) In addition, subject to the provisions of Section 41305, there shall be provided from the General Fund to the State School Fund in each fiscal year such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse school districts, county superintendents of schools, the California Youth Authority and the State Department of Education for the actual cost of instructing pupils in the operation of motor vehicles.

The amount shall not exceed sixty dollars (\$60) per pupil instructed in the laboratory phase of driver education in accordance with the rules and regulations of the State Board of Education.

(c) Subject to the provisions of Section 41305, there shall also be provided the sum the Superintendent of Public Instruction shall certify as necessary to reimburse school districts, county superintendents of schools, the California Youth Authority and the State Department of Education for the actual cost of replacing vehicles and simulators used exclusively in the laboratory phase of driver education programs, but the amount shall not exceed three-fourths of that part of the actual cost of instructing pupils in the

laboratory phase of driver education during the preceding fiscal year which was: (1) in excess of sixty dollars (\$60) per pupil instructed, and (2) expended by the district, the county superintendent of schools, the California Youth Authority and the State Department of Education in replacing such vehicles and simulators. Reimbursement for vehicles shall be computed for only that portion of the total mileage used exclusively in the laboratory phase of driver education programs.

(d) For purposes of computing reimbursement, whenever a school district, a county superintendent of schools, the California Youth Authority, or the State Department of Education replaces a driver training vehicle or simulator purchased by the district with a vehicle or simulator that is a gift or loan, the purchase price of such new or acquired equipment shall be deemed to be the market value of the vehicle or simulator acquired through a gift or loan.

A simulator is any device approved by the Department of Education to be used in classrooms for purposes of laboratory instruction under simulated driving conditions.

41305. The amounts provided under Section 41304 for any fiscal year shall not exceed an amount equal to the sum of the moneys credited to the Driver Training Penalty Assessment Fund in the State Treasury during the preceding fiscal year and the amount by which the deposits in the Driver Training Penalty Assessment Fund on or after September 15, 1961, have exceeded the amounts required to reimburse the General Fund on account of transfers made after such date.

41306. The Superintendent of Public Instruction shall also allow as otherwise provided in Section 41304 for the driver training instruction necessary to be safely tested for a driver's license at the Department of Motor Vehicles, those physically handicapped pupils, mentally retarded pupils who come within the provisions of Section 56501, and educationally handicapped pupils who are in attendance in a public secondary school in California which offers such qualified instruction, and who may qualify for a driver's license, or other license, issued by the California Department of Motor Vehicles, a total allowance not to exceed two hundred dollars (\$200) including the reimbursement provisions set forth in Section 41900 to each school district and county superintendent of schools. All driver training for pupils herein described must be provided by qualified teachers, as defined by Sections 41906 and 41907. The provisions of this section may not be applied if reimbursement allowable under Sections 41900 to 41912, inclusive, is sufficient to meet the total cost of instruction as herein described.

It is the intent of the Legislature that driver training instruction be provided pupils as a part of the high school curriculum, and the Legislature finds and declares that exceptional children are entitled to the benefit of such instruction so far as their individual capabilities permit, understanding that those pupils herein described often require individualized and amplified driver training instruction in

order to succeed in becoming safe operators of motor vehicles. Since without a means of self-transportation much of the overall program of education and rehabilitation provided for by the Legislature would be of little avail to the person without the mobility required to become a productive and well-adjusted member of society, the Legislature further declares that it is incumbent upon the state to share in the cost of providing a most needed and desirable program of driver training instruction for these exceptional children.

41307. In addition there shall be provided such amount as the Superintendent of Public Instruction shall certify as necessary to provide the allowances to school districts during each fiscal year under the provisions of Sections 41932 to 41936, inclusive. Such amount is hereby appropriated from the Investment Fund in the State Treasury and shall be transferred therefrom to the State School Fund by the State Controller each fiscal year.

41308. Each pregnant pupil enrolled in any program for physically handicapped pupils maintained by a county superintendent of schools, whose only condition for being enrolled in such a program is her pregnancy, shall be allowed to enroll in automobile driver training provided by the school district of residence; however, the school district shall receive, for the driver training instruction of the pupil, only the driver training allowances authorized by Section 41900 and shall not receive, for the driver training instruction of the pupil, driver training allowances authorized by Section 41306.

41309. To provide for the operation of newly organized school districts, moneys in the School District Organization Revolving Fund in the State Treasury shall be utilized for purposes of making loans to newly organized school districts pursuant to Article 4 (commencing with Section 41360) of Chapter 3 of Part 24 of Division 3 of this title of this chapter. The School District Organization Revolving Fund shall be comprised of five hundred thousand dollars (\$500,000) appropriated from the County School Service Fund Surplus Account, and an additional amount of one hundred thousand dollars (\$100,000) otherwise transferable from the General Fund to the State School Fund.

Notwithstanding any provision of Section 14002 to the contrary, the amount to be transferred from the General Fund to the State School Fund in the 1967-1968 fiscal year pursuant to subdivision (b) of Section 14002 shall be reduced by one hundred thousand dollars (\$100,000), and such amount shall be paid into the School District Organization Revolving Fund.

41310. A governing board of a school district which determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations may request an emergency apportionment through the Superintendent of Public Instruction subject to the requirements and repayment provisions of Article 2 (commencing with Section 41320) of this chapter.

It is not the intent of the Legislature that this section authorize emergency loans to school districts for the purpose of meeting cash flow requirements pending the receipt of local taxes and other funds.

It is further the intent of the Legislature that no such emergency apportionments occur unless funds have been specifically appropriated therefor by the Legislature.

41311. There is hereby created in the State Treasury the State Child Nutrition Fund which is continuously appropriated to the Department of Education without regard to fiscal years to carry out the purposes of Article 10 (commencing with Section 49530) of Chapter 9 of Part 27 of Division 4 of this title and of Article 3.5 (commencing with Section 41350) of this chapter.

The State Child Nutrition Fund shall be administered by the State Department of Education under policies established by the State Board of Education. It is the intent of the Legislature that the fund shall provide permanent financial assistance to eligible school districts, county superintendents of schools, local agencies, private schools, parochial schools, and child development programs, for implementing the school meal program. The fund shall be used to reimburse the cafeteria account of school districts, county superintendents of schools, local agencies, private schools, parochial schools, and child development programs, based upon the number of qualifying meals served to students.

41312. (a) To the State Child Nutrition Fund: (1) there is hereby appropriated from the General Fund the sum of not to exceed nine million five hundred thousand dollars (\$9,500,000) for fiscal year 1975-76; (2) there is hereby reappropriated the unexpended balance of the appropriation made by Item 319 of the Budget Act of 1975, for fiscal year 1975-76; and (3) for each fiscal year after fiscal year 1975-76, from the General Fund, the amount recommended to be necessary therefor by the Superintendent of Public Instruction and established pursuant to the Budget Act each year, for allocation and disbursement pursuant to Article 3.5 (commencing with Section 41350) of this chapter, except Section 41353.

(b) There is hereby appropriated for each fiscal year from the General Fund to the State Child Nutrition Fund the sum of not to exceed two and one-half percent (2½%) of the sum appropriated for each fiscal year pursuant to subdivision (a), for expenditure pursuant to Section 41353.

## Article 2. Emergency Apportionments

41320. Before any apportionment is made pursuant to the provisions of Section 41310, the following requirements shall be met:

(a) The district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the district a report prepared by an independent auditor approved by the county superintendent of schools on the financial and budgetary conditions of the district, a written management review conducted

by a qualified management consultant approved by the county superintendent of schools, and a plan adopted by the governing board to resolve the financial problems of the district.

(b) The county superintendent of schools shall review the independent auditor's report, the management review, and the district plan.

(c) The county superintendent of schools shall submit to the Superintendent of Public Instruction, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, and the Director of Finance a copy of the reports and plan specified in subdivision (a).

(d) The Superintendent of Public Instruction shall review the reports submitted to him by the county superintendent of schools and shall certify to the Director of Finance that the action taken to correct the financial problems of the district is realistic and will result in placing the district on a sound financial basis.

(e) The Legislature shall have specifically appropriated sufficient funds to make the apportionment. The act making such appropriation shall contain a schedule of repayments made pursuant to this article.

41321. The governing board of a district requesting apportionment shall, in its annual budget for the year succeeding the year in which it requests apportionment, expressly indicate the utilization of the plan to resolve its financial problems. If such plan extends beyond the next succeeding year, then subsequent budgets for years to which the plan is applicable shall similarly indicate such utilization.

41322. No more than 18 months after the disbursement of funds to the district, the county superintendent of schools shall make a followup review on the action taken and shall submit a report to the Superintendent of Public Instruction and the Director of Finance of the results of the action taken to correct the financial problems of the district.

41323. The emergency apportionment shall be repaid to the state over a three-year period, or less, together with interest at a rate equal to the rate established for the most recent sale of state bonds as of the date of the disbursement of funds to the district.

41324. The Superintendent of Public Instruction shall withhold from the apportionments to be made to the district from the State School Fund in each year an amount equal to the amount which becomes due in the year.

### Article 3. Disbursements by Superintendent of Public Instruction

41330. The Superintendent of Public Instruction shall on or before July 15th of each year certify to the Controller the amounts estimated to be apportioned to each effective school district during the current fiscal year on the basis of the report of the districts for

the second principal apportionment of the preceding fiscal year, the amounts estimated to be apportioned to each county school tuition fund and to each county school service fund for schools and classes to be maintained by the county superintendent of schools during the current fiscal year on the basis of reports provided by the county superintendent of schools, and the amounts estimated by the Superintendent of Public Instruction to be apportioned to the county school service fund during the current fiscal year under subdivisions (a) and (b) of Section 14054. This apportionment shall be called the advance apportionment.

41331. If, due to changes in federal legislation, the entitlement under Public Law 874 of the 81st Congress for the 1972-1973 fiscal year has been reduced substantially in a district, the district superintendent may petition the Superintendent of Public Instruction for an advance of funds from the General Fund during such fiscal year of a part of the first principal apportionment to such district for the 1973-1974 fiscal year, which advance shall not exceed the amount of the computed reduction. There is hereby appropriated from the General Fund sufficient funds as needed to make the advance of funds as authorized pursuant to this section.

If, upon review of a request, the Director of Finance and the Superintendent of Public Instruction deem it necessary to provide an advance of funds, they shall certify to the Controller the amount of the advance to be allowed, and the Controller shall transfer such amount to the school district, to be repaid by reducing the first principal apportionment to be made to the district during the 1973-1974 fiscal year or alternatively, at the option of the district with the approval of the Director of Finance and the Superintendent of Public Instruction, by the withholding of equal amounts from the first principal apportionments to be made to the district during the 1973-1974, 1974-1975, and 1975-1976 fiscal years. The total amount withheld shall equal the amount of the advance, plus interest, if repayment is not made during the 1973-1974 fiscal year, at a rate to be determined by the Director of Finance.

41332. The Superintendent of Public Instruction shall on or before February 20th of each year apportion to each elementary school district, high school district, community college district, county school service fund, and county school tuition fund the total amounts allowed to them under Sections 14054, 14057, 14058, 41790, 41800, 41810, 41811, 41840, 41841, 41863, 41866, 41882, 41884, 41885, 41886, 41888, 41950, 41970, 41971, and 52205, whichever are in effect. This apportionment shall be called the first principal apportionment.

41333. For purposes of determining the eligibility of a school for the "necessary small school" foundation program, if by November 10th of any current fiscal year, an additional teacher or teachers are hired in elementary schools or high schools such teachers shall be deemed to have been hired as of the beginning of the school year, and the districts shall, if otherwise eligible, be entitled to the appropriate small school foundation programs for purposes of

computation of the principal apportionments.

41334. The Superintendent of Public Instruction shall on or before December 10th of each year apportion:

(a) To each elementary, high school, and county school service fund the total of amounts allowed to them under Sections 41850 to 41862, inclusive, and Sections 41930 to 41936, inclusive, and

(b) To each school district maintaining a high school or high schools, each county superintendent of schools, the California Youth Authority and the State Department of Education the total of amounts allowed to them under Sections 41900 to 41912, inclusive.

This apportionment shall be called the special purpose apportionment.

41335. The Superintendent of Public Instruction shall on or before June 25th of each year apportion to each elementary school district, high school district, county school service fund, and county school tuition fund the total amounts allowed to them under Sections 14054, 14057, 14058, 41790, 41800, 41810, 41811, 41840, 41841, 41863, 41866, 41882, 41884, 41885, 41886, 41888, 41950, 41970, 41971, and 52205, whichever are in effect. This apportionment shall be called the second principal apportionment.

41336. The Superintendent of Public Instruction shall on or before June 25th of each year apportion to each school district or fund the total of the amounts allowed to the district or fund under Section 41972. This apportionment shall be called the final apportionment.

41337. The Superintendent of Public Instruction shall apportion at such times as needed the amounts allowed pursuant to Section 14055.

41338. The Superintendent of Public Instruction shall withhold from the apportionment to an elementary school district, as a part of the first principal apportionment and second principal apportionment, the amount allowed the elementary school district for the average daily attendance in grades 7 and 8 in a junior high school by reason of the operation of subdivisions (a) and (b) of Section 41600. The amount withheld shall be determined by multiplying the total amount of basic state aid and state equalization aid computed for the district by the foundation program for units of average daily attendance in grades 7 and 8 and dividing the product by the total foundation program of the district.

The Superintendent of Public Instruction shall add the amount withheld to the apportionment required to be made to the high school district maintaining the junior high school.

41339. The Superintendent of Public Instruction shall certify each apportionment made by him under Sections 41332 to 41340, inclusive, whichever are in effect, to the State Controller.

41340. The Superintendent of Public Instruction shall furnish an abstract of each apportionment of the State School Fund to the State Controller, the Department of Finance and to the county and city and county auditors, county and city and county treasurers, and to

the county superintendents of schools of the several counties of the state.

41341. If during any fiscal year there is apportioned to a school district or to any fund from the State School Fund at least one hundred dollars (\$100) more or at least one hundred dollars (\$100) less than the amount to which the district or fund was entitled, the Superintendent of Public Instruction, in accordance with regulations that he is herewith authorized to adopt not later than the third succeeding fiscal year shall withhold from, or add to, the apportionment made during such fiscal year, the amount of such excess or deficiency, as the case may be. Notwithstanding, any other provision of this code to the contrary, excesses withheld or deficiencies added by the Superintendent of Public Instruction under this section shall be added to or allowed from any portion of the State School Fund except that portion reserved as allowances for basic state aid.

41342. When any judgment has been rendered which requires the apportionment from the State School Fund to any school district, to any other agency, or to any fund for any fiscal year of more than the amount actually apportioned thereto during such fiscal year, the difference shall be apportioned to the district, agency, or fund by the Superintendent of Public Instruction from the State School Fund during the fiscal year following that in which the judgment becomes final before any other apportionment from the State School fund is made. Upon the becoming final of any judgment which requires the apportionment from the State School Fund to any school district, to any other agency, or to any fund for any fiscal year of less than the amount actually apportioned thereto during any fiscal year, the difference shall be deducted from the apportionment made to such district, agency, or fund by the Superintendent of Public Instruction from the State School Fund during the fiscal year following that in which the judgment becomes final.

41343. Wherever the attendance of pupils is not included in the computation of the average daily attendance of a school district for any fiscal year because the certification document of the person employed by the district to instruct such pupils was not in force during the period of such attendance, the governing board of the district may, upon payment of the salary of such person pursuant to Section 45036, or similar provisions of law, report such attendance to the Superintendent of Public Instruction during the fiscal year in which such salary is paid. Such report shall be made in such form as shall be prescribed and furnished by the Superintendent of Public Instruction. Thereafter the Superintendent of Public Instruction shall add to the apportionment from the State School Fund to the district during the next succeeding fiscal year or years, as determined by him but not exceeding three, the additional amount to which the district would have been entitled in the fiscal year next succeeding that in which such attendance was not included in the computation of the average daily attendance of the district if such amount is at

least one hundred dollars (\$100) or more.

Any such additional amount shall be apportioned from the State School Fund before any other apportionment from such fund is made and shall be allowed from any portion of such fund except that portion reserved as allowances for basic state aid.

### Article 3.5. Child Nutrition Allowances

41350. The Superintendent of Public Instruction shall make allowances from the State Child Nutrition Fund as follows:

(a) Reimbursement of child nutrition entities, as defined by Section 49530.5, for all eligible meals, pursuant to Section 49536.

(b) Reimbursement of school districts for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals required by Section 49550 as determined by the Superintendent of Public Instruction and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of Division 4 of this title, except that this amount shall be reduced by the district contribution, computed pursuant to Section 41351.

(c) Reimbursement of county superintendents of schools for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals as determined by the Superintendent of Public Instruction and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of Division 4 of this title.

The combined state and federal reimbursements shall not exceed the current fiscal year average statewide lunch or breakfast cost. If the combined pupil charges, state reimbursements, and federal reimbursements exceed the current average statewide lunch or breakfast costs, the federal funds shall be expended prior to the expenditure of any state funds.

41351. The Superintendent of Public Instruction shall compute for each school district an amount, to be known as the district contribution, which would be produced if a tax of five cents (\$0.05) was levied on each one hundred dollars (\$100) of 100 percent of the assessed valuation in such district as shown by the last equalized assessment roll of the district for the current year and the resulting sum was divided by the number of free and reduced-price lunches or breakfasts served by the district to needy pupils during the current fiscal year.

41352. The Department of Education shall make allowances from the State Child Nutrition Fund three times during each fiscal year. By September 15, the department shall calculate the amount apportioned to eligible recipients under this fund for the prior year and distribute 50 percent of this amount. By February 15, the Department of Education shall estimate the amount the recipient

will receive during the current fiscal year, calculate 80 percent of this amount, subtract the amount previously paid under this article, and distribute this amount to the school district. By August 15, the Department of Education shall calculate and distribute the amount that should be apportioned under this article.

41353. From funds appropriated to the State Child Nutrition Fund by subdivision (b) of Section 41312, the Superintendent of Public Instruction shall make the following expenditures:

(a) Not to exceed 20 percent, for state administrative expenses.

(b) Not to exceed 80 percent, for distribution to child nutrition entities, as defined by Section 49530.5, which maintain nutrition education programs on a project approval basis pursuant to subdivision (b) of Section 49534 and for expenditure by the Department of Education; provided, however, that of such 80 percent not more than 5 percent thereof shall be used by the department for the development, implementation, supervision, and evaluation of nutrition education programs.

#### Article 4. Loans and Advances

41360. Loans may be made from moneys in the Public School District Organization Revolving Fund to newly organized elementary, high school, or unified school districts upon application of the governing board of any such district, certified by the county superintendent of schools and approved by the Superintendent of Public Instruction for use by the district during the period from the date the action to form the district was completed and the date the district becomes effective for all purposes. Money loaned to a district pursuant to this section shall be used only to meet (a) the expenses of office rental, office supplies, postage, telephone, and telegraphing; (b) the expenses of necessary elections required by law or authorized by Section 4062; and (c) the expenses of employing, the salary of, and necessary travel expenses of officers and necessary clerical help for the governing board.

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

#### Article 5. Conditions for Use of Apportionments

41370. The governing board of each school district shall, except as may otherwise be specifically provided by law, use all money apportioned to the district from the State School Fund during any fiscal year exclusively for the support of the school or schools of the district for that year.

41371. If at the end of any fiscal year during which the schools of a school district have been maintained for the period required or permitted by law, there is standing to the credit of the district an unexpended balance of money received from the State School Fund, it may be expended for the payment of claims against the district outstanding, or it may be expended during the succeeding fiscal year.

41372. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 41011 provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means expenditures for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual) or expenditures for facility acquisition and construction.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

(a) By an elementary school district, sixty percent (60%) of the district's current expense of education.

(b) By a high school district, fifty percent (50%) of the district's current expense of education.

(c) By a unified school district, fifty-five percent (55%) of the district's current expense of education.

If the Superintendent of Public Instruction determines that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, he shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the Superintendent of Public Instruction shall be deposited in the county treasury to the credit of the school district, but shall be unavailable for expenditure by the district pending the determination to be made by the Superintendent of Public Instruction on any application for exemption which may be submitted to the Superintendent of Public Instruction. In the event it appears to the governing board of

a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom teachers in excess of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the Superintendent of Public Instruction in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the Superintendent of Public Instruction shall grant the district exemption for any amount that is less than one thousand dollars (\$1,000), and if the amount is one thousand dollars (\$1,000), or greater may grant the district exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application is made. If such exemption is granted the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the Superintendent of Public Instruction shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

The Superintendent of Public Instruction shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. He may require the submission to him, during the school year, by school district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

41373. The Superintendent of Public Instruction shall, no later than the 10th calendar day of each general session of the Legislature, submit to the Legislature a written report on the operation, effect, and the extent of compliance with the provisions of Section 41372 by school districts in the state during the two most recently ended fiscal years. The report shall describe the activities of the Superintendent of Public Instruction, the Department of Education, and the several county superintendents of schools undertaken to insure compliance with the provisions of Section 41372, and may contain recommendations for legislation pertaining to that subject.

41374. Notwithstanding any other provision of law to the contrary, Section 41372 shall not apply to any elementary school district, high school district, or unified school district, which maintains no individual class session with pupils in attendance exceeding the numbers, for the particular grade levels, following:

- (a) An elementary school district—twenty-eight (28) pupils.
- (b) A high school district—twenty-five (25) pupils.
- (c) A unified school district—twenty-eight (28) pupils in respect to grades kindergarten through 8, inclusive; and twenty-five (25)

pupils in respect to grades 9 through 12, inclusive.

As used in this section the phrase "individual class session" shall not include any class session held in grades kindergarten through 8, inclusive, in courses in art, instrumental and vocal music, industrial arts, and physical education. The phrase shall not include any class session held in grades 9 through 12, inclusive, in courses in commercial arts, instrumental and vocal music, industrial arts, vocational arts, and physical education. The phrase "individual class session" shall not include any class session held in grades 9 through 12, inclusive, for which two or more individual class groups which come within the descriptions specified by the first paragraph of this section and subdivision (a) or (b), or both, are assembled together in the same room for joint lectures or demonstrations.

Notwithstanding the provisions of subdivisions (b) and (c), grades 7, 8, and 9 of a junior high school shall be deemed to be high school grades for purposes of this section.

The governing board of each school district shall, subject to the rules and regulations of the Superintendent of Public Instruction and in the manner and form he shall prescribe, certify to that officer on or before December 31 of each year, information concerning its individual class sessions and the numbers of pupils in attendance thereon, as of the last day of the second school month of the same year which certification shall constitute the basis for the applicability of the provisions of this section to the school district.

41375. It is the intent and purpose of the Legislature to encourage, by every means possible, the reduction of class sizes and the ratio of pupils to teachers in all grade levels in the public schools, and to urge every effort to this end to be undertaken by the local school administrative authorities. The Legislature shall undertake studies directed to the establishment of effective programs by which the attainment of decreased class sizes through local action may be encouraged. Such programs may involve financial rewards for demonstrated achievement, as well as other forms of preferential consideration afforded as an integral part of the state's public school financial support programs.

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or

whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall compute the product obtained by multiplying the excess

number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular schoolday. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular schoolday.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made

for the fiscal year 1964–65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

41377. During the 1970–1971 fiscal year and the six subsequent fiscal years thereafter, the governing board of a unified school district may apply to the Superintendent of Public Instruction for exemption from the penalty provisions of Section 41376 in order that a pilot program of team instruction in reading or mathematics, or both, may be conducted only in such elementary schools within the district as may be approved by the Superintendent of Public Instruction. The pilot program shall be conducted in such a manner that, insofar as practicable, one certificated employee and necessary instructional aides remain with the same students from kindergarten through grade 6 for instruction in reading or mathematics, or both.

The Superintendent of Public Instruction may grant the exemption pursuant to this section on a yearly basis, but not beyond the 1976–1977 fiscal year, and only after approval by the Superintendent of Public Instruction of justification documents presented by the district relating to the pilot program.

School districts operating programs under this section shall submit annual evaluations to the Superintendent of Public Instruction as to the academic progress of students enrolled in such programs. The evaluations shall be based on a comparison of pilot program students to a statistically valid control group using pretest and posttest scores as a measurement of achievement.

The State Board of Education shall annually review the pilot program.

41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes.

(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class.

(b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33).

(c) The total number of pupils by which the average class size in

the district exceeds 31.

(d) The greater number of pupils as determined in (b) or (c) above.

(e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.

41379. The governing board of a school district may make application to the Superintendent of Public Instruction requesting a waiver of the provisions of Section 41378 whenever the provisions of that section would cause extreme hardship to the district. The Superintendent of Public Instruction may grant such waiver whenever he has determined that the applications of the provisions of Section 41378 would unduly burden the district with expense, or would require a pupil to be exposed to hazards or require undue time in reaching the class which he is assigned to attend.

If the waiver is granted by the Superintendent of Public Instruction, no credit for attendance shall be granted for pupils in a kindergarten class that are in excess of 33, or for pupils in enrollment that make the average kindergarten classes in the district exceed 31 in enrollment, whichever is the larger.

41380. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

41380 The provisions of Section 45342, of subdivision (a) of Section 45347, and of Sections 41378 and 41379 are not applicable to an experimental kindergarten program conducted by one school district in three schools which has been approved by the Superintendent of Public Instruction, provided that the schools and school district have conducted an experimental kindergarten program during the summer session of 1968 and the spring and fall semesters of 1969. The governing board of the school district conducting such program shall submit an evaluation of program results to the Superintendent of Public Instruction no later than December 1st of each year. The Superintendent of Public Instruction shall submit a yearly report to the Legislature evaluating the results of such program no later than the fifth calendar day of each regular session.

This section shall remain in effect until January 1, 1976, and shall have no force or effect after that date.

41380. The provisions of Section 45342 of subdivision (a) of Section 45347, and of Sections 41378 and 41379 are not applicable to an experimental kindergarten program conducted by one school district in three schools which has been approved by the Superintendent of Public Instruction, provided that the schools and school district have conducted an experimental kindergarten program during the summer session of 1968 and the spring and fall semesters of 1969. The governing board of the school district conducting such program shall submit an evaluation of program results to the Superintendent of Public Instruction no later than December 1st of each year. The Superintendent of Public Instruction shall forward such report to the Legislature no later than January 10 of each year.

Such evaluation report shall include an assessment of the

effectiveness of the program in terms of academic and readiness skills, social development, and the personal maturity of the pupils. The report shall show the relative progress of the pupils in the program compared to similar pupils in comparable schools which do not have such a program.

The school district operating such program shall provide in its report to the superintendent a comprehensive evaluation of the experimental kindergarten program's impact on student academic achievement. Pre- and post-testing of basic skills for student participants and a separate control group shall be conducted at the beginning and end of each school year. The evaluation report shall identify the variables which may have affected student academic achievement. The evaluation objective shall be to determine if the experimental organization pattern has a measurable impact on student academic achievement.

This section shall remain in effect until August 31, 1980, and as of that date is repealed.

41381. The State Board of Education may waive the minimum schoolday requirements of Section 46112 to enable school districts to establish experimental educational programs in reading and mathematics. A waiver shall be granted pursuant to this section only if:

(a) The State Board of Education has approved the experimental program.

(b) The total weekly minutes of instruction in the experimental program are equivalent to the total number of minutes per week which would be required by Section 46112.

Participating school districts shall conduct pretesting and posttesting of pupils enrolled in such experimental educational programs to determine the academic achievement of such pupils. Such tests shall be approved by the State Board of Education. Participating school districts shall also conduct control testing programs of pupils not enrolled in such experimental educational programs. Pupils in the control group shall be selected to be, as nearly as practicable, comparable in ability and socioeconomic background to pupils enrolled in the experimental programs.

41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of

Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

#### Article 6. Teaching and Nonteaching Certificated Employee Ratios

41400. It is the intent and purpose of the Legislature to improve public education in California by maximizing the allocation of existing resources, to discourage the growth of bureaucracy in the public schools, and to emphasize the importance and significance of the classroom teacher.

41401. For the purposes of this article, a "teacher" and an "administrative employee" shall have the same meaning as specified in Section 33150.

41402. For the purposes of this article, the maximum ratios of administrative employees to each 100 teachers in the various types of school districts shall be as follows:

- (a) In elementary school districts—9.
- (b) In unified school districts—8.
- (c) In high school districts—7.

41403. The Superintendent of Public Instruction shall, for each current fiscal year, determine for each school district in the state, to two decimal points, the following:

(a) The total number of administrative employees, except those serving in positions which are completely supported by categorical grants from any source and are in programs which require specific teacher administrator ratios, or which are completely supported by federal funds.

(b) The total number of teachers except those serving in positions which are completely supported by federal funds or by categorical grants from any source and are in programs which require specific teacher administrator ratios.

(c) The total maximum number of administrative employees which should be employed by the district based upon the application of the appropriate ratio prescribed by Section 41402 to the number of teachers determined pursuant to subdivision (b).

(d) The number of administrative employees in excess of the number allowable without penalty as determined by subtracting the number determined pursuant to subdivision (c) from the number determined pursuant to subdivision (a).

The number of employees reported pursuant to subdivisions (a), (b), (c), and (d) shall include the full-time equivalent of all fractional time of such employees.

41404. The Superintendent of Public Instruction shall determine that portion of the average salaries paid administrative employees of

a district attributable to state support as follows:

(a) He shall compute the ratio which total state support to the district general fund bears to the total general fund income of the district.

(b) He shall multiply the ratio determined pursuant to subdivision (a) by the average salary of administrative employees.

(c) He shall multiply the product of subdivision (b) by the number of administrative employees converted to the nearest whole number in excess of the maximum number specified in Section 41402.

The Superintendent of Public Instruction shall certify to the Controller the amounts computed pursuant to this section. The Controller shall reduce the amount of the second principal apportionment made to the district for the current fiscal year pursuant to Section 41335 by the product so produced, provided that, no such reduction shall reduce the final apportionment below the amount specified in Section 6 of Article IX of the California Constitution.

41404.5. Upon application of a school district governing board, the Superintendent of Public Instruction may grant a waiver from the provisions of Section 41402 when he has made a determination that, due to unusual circumstances existing in the district, the applicable ratios of teaching to nonteaching personnel of the district as prescribed therein do not best serve the educational needs of the pupils of the district and that failure to grant the waiver would result in extreme hardship to the district. Such waiver shall be limited to not more than three administrative positions.

The Superintendent of Public Instruction shall submit a report to the Legislature by January 5 of each year of the number of waivers and the reasons for granting such waivers pursuant to this section.

This section shall remain in effect only until July 1, 1977, and as of that date is repealed.

41405. For the purposes of this article the Superintendent of Public Instruction shall require the submission, by school districts, of such reports at such times and in such form as he may deem necessary for the effective performance of his responsibilities.

41406. Amounts allowable from the State School Fund but not transferred thereto because of the operation of Section 41404 and the provisions of subdivision (b) of Section 14002, shall be held in the General Fund and shall be expended for public school purposes pursuant to appropriations thereof enacted by the Legislature.

#### Article 7. Conditions Disqualifying School Districts from Apportionments

41420. No school district, other than one newly formed, shall, except as otherwise provided in this article, receive any apportionment from the State School Fund unless it has maintained the regular day schools of the district for at least 175 days during the

next preceding fiscal year.

41421. A school district is a newly formed district up to the close of the fiscal year in which its formation became effective for all purposes.

41422. A district which is prevented from maintaining its schools during a fiscal year for at least 175 days because of fire, flood, or epidemic, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue such order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold a teacher, or because of the illness of the teacher, which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the governing board of the school district and of the county superintendent of schools, shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 days.

41423. No money shall be apportioned to a district for the excess cost of educating pupils in a 24-hour elementary school of the district unless such school has met the requirements of the Superintendent of Public Instruction based upon educational standards and standards established by state agencies authorized by law to inspect or supervise child-caring institutions.

#### CHAPTER 4. STATE SCHOOL FUND—COMPUTATION OF ALLOWANCE

##### Article 1. General Provisions

41600. For the purposes of computing allowances and apportionments from the State School Fund for the advance apportionment, first principal apportionment, and second principal apportionment on the basis of average daily attendance:

(a) Each elementary school district shall be deemed to comprise the kindergartens and grades 1 to 8, inclusive, maintained by the district, and the seventh and eighth grades of the district not maintained by the district because of the attendance upon a junior high school of pupils who would otherwise attend upon seventh and eighth grades maintained by the district.

(b) Each high school district shall be deemed to comprise all of grades 9 to 12, inclusive, maintained within the high school district whether maintained by a high school district.

(c) Each unified school district shall be deemed to be an elementary school district comprising the kindergartens and grades 1 to 8, inclusive, maintained by the district and the seventh and eighth grades of the district not maintained by the district in elementary schools because of the attendance upon a junior high

school of pupils who would otherwise attend the seventh and eighth grades maintained in elementary schools by the district, and a high school district comprising all of grades 9 to 12, inclusive.

41601. For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him and the average daily attendance for the county school tuition fund. If the average daily attendance in the regular day schools of a district for the period of time between July 1 and June 30 is greater or lesser than the average daily attendance in the regular day schools reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the district of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 41341.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction and average daily attendance shall be computed in the following manner:

(a) The average daily attendance in the regular elementary, junior high, and high schools maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each period, by the number of days such schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays.

If the average daily attendance in schools and classes maintained by school districts other than regular day schools and classes for the period of time between July 1 and June 30 is greater or lesser than the average daily attendance in such schools and classes reported for the second period report, the separate state support which is provided for attendance in such schools and classes shall be recomputed on the basis of the fiscal year average daily attendance, and increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 41341.

(b) The average daily attendance in summer school and outdoor science and conservation education classes maintained during the period between the last day the regular day schools are in session during the preceding year and the first day the regular day schools are in session during the current year shall be reported on both the

first period and second period reports. Such average daily attendance shall be computed by dividing the days of attendance allowed by 175.

(c) The attendance for schools and classes maintained by the county superintendent of schools and for the county school tuition fund credited after the last full school month of the second period of the preceding year and prior to the end of each reporting period shall be reported on each report. The average daily attendance of the school, class, or fund shall be determined for the first period by dividing the days of attendance allowed by 100 and for the second period, the days of attendance allowed shall be divided by 175.

(d) The days of attendance in classes for adults continuation schools and classes, regional occupation centers and opportunity schools and classes maintained after the last full school month of the second period of the preceding year and prior to the end of each reporting period shall be reported on each report. The average daily attendance in such schools and classes shall be determined for the first period by dividing the days of attendance allowed by 100; for the second period, the days of attendance allowed shall be divided by 175 for kindergarten and grades 1 to 12, inclusive.

41602. The governing board of a school district affected by fluctuations in enrollments and attendance levels to a degree which will, in all likelihood, result in an actual total of average daily attendance for the fiscal year in excess of that shown in the second period report for the second principal apportionment provided for in Section 41601, may, with the approval of the Superintendent of Public Instruction, submit, in lieu of such second period report, a report of the estimated total average daily attendance for the fiscal year. The report shall be in the form prescribed by the Superintendent of Public Instruction, and shall be utilized for purposes of the second principal apportionment. If the average daily attendance in the regular day schools of a district for the period of time between July 1 and June 30 exceeds the estimated total average daily attendance reported under this section, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be brought forward to the corresponding categories of the second period report for the next succeeding fiscal year. In the event the estimated total average daily attendance reported under this section exceeds the actual average daily attendance for the fiscal year, the Superintendent of Public Instruction shall withhold, pursuant to Section 41341, from apportionments made during the succeeding fiscal year, the amount of the excess moneys which may have been apportioned as a result thereof.

41603. The amounts computed as allowable to any school district for state equalization aid shall be reduced by fifty percent (50%) of miscellaneous funds, as defined in Section 41604. In no event shall the reduction exceed the total amount allowable as equalization aid to the school district for the fiscal year. For such purposes,

miscellaneous funds, as defined in Section 41604, received by a unified school district, shall be allocated to the kindergarten and elementary, and high school grades, respectively, on the basis of the proportion of the district's total average daily attendance in each such grade level, and the provisions of Section 41600 shall be applicable.

Should the amount of miscellaneous funds, as defined in Section 41604, actually received by a school district for any fiscal year be more or less than that reported to the Superintendent of Public Instruction, the Superintendent of Public Instruction shall during the fiscal year next succeeding withhold from or add to the apportionment made to the district from the State School Fund the amount of the excess or deficiency in the apportionment of state equalization aid from the State School Fund for the preceding year, if the amount of the excess or deficiency in such apportionment was one hundred dollars (\$100) or more.

41604. "Miscellaneous funds" as used in Section 41603 means the amount the county superintendent of schools has determined and reported to the Superintendent of Public Instruction in accordance with regulations the Superintendent of Public Instruction are hereby authorized to adopt that the district has received and which has been deposited to the credit of the general fund of the district for a fiscal year on account of in-lieu taxes or income from bonuses, royalties, rentals or any other income from district property or property within the district or state not being assessed for tax purposes and not being used for school purposes. Federal forest reserve funds received by a district shall not be considered miscellaneous funds as defined by this section.

41605. If any computation made under, or necessitated by, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive and Sections 46300 to 46305 inclusive, results in an amount which is:

(a) Less than one dollar (\$1), the amount shall be counted as one dollar (\$1).

(b) More than one dollar (\$1) and includes a fraction of one-half dollar (\$0.50) or more, the fraction shall be counted as one dollar (\$1).

(c) More than one dollar (\$1) and includes a fraction of less than one-half dollar (\$0.50), the fraction shall not be counted.

41606. The term "elementary school district" as used in Section 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, Sections 46304 and 46305, whichever are in effect, means, unless expressly provided otherwise, each elementary school district which is composed of a single elementary school district and each union elementary school district, joint union elementary school district, or unified school district; and does not include any elementary school district included within a union elementary school district or a joint union elementary school district or a unified school district.

41607. For the purposes of computation of allowances and apportionments from the State School Fund, under effective sections of this code, each elementary school district as defined by Section 41606, and each high school district merged or otherwise included within a unified school district shall be deemed a separate and independent district, but all apportionments from the State School Fund on account of any district merged or otherwise included within a unified school district shall be made to the unified school district and shall be available for expenditure by the unified school district for all schools and classes of the district.

41608. For the purposes of computation of allowances and apportionments from the State School Fund, whenever computations of apportionments based on average daily attendance are made for high school districts only the attendance in all classes of grades 9 to 12, inclusive, and in all types of ungraded classes, including classes for adults, which have been reported as attached to, or as a part of, a school which maintains any of grades 9 to 12, inclusive, shall be included.

## CHAPTER 5. FOUNDATION PROGRAM

### Article 1. Computation for School Districts

41700. The Superintendent of Public Instruction shall compute for each elementary, and high school, district the appropriate amount of a foundation program of school support therefor, in the manner prescribed by this article, using the dollar amounts contained in the various sections of this article which apply.

41701. For each elementary school district which maintains only one school with an average daily attendance of less than 101, he shall make one of the following computations, whichever provides the lesser amount:

(1) For each small school which has an average daily attendance during the fiscal year of less than 26, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least one teacher was hired full time, he shall compute for the district eighteen thousand eight hundred seventy-five dollars (\$18,875).

(2) For each small school which has an average daily attendance during the fiscal year of 26 or more and less than 51, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least two teachers were hired full time for more than one-half of the days schools were maintained, he shall compute for the district thirty-seven thousand seven hundred fifty dollars (\$37,750).

(3) For each small school which has an average daily attendance during the fiscal year of 51 or more but less than 76, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school three teachers were hired full time for

more than one-half of the days schools were maintained, he shall compute for the district fifty-six thousand six hundred twenty-five dollars (\$56,625).

(4) For each small school which has an average daily attendance during the fiscal year of 76 or more and less than 101, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school four teachers were hired full time for more than one-half of the days schools were maintained, he shall compute for the district seventy-five thousand five hundred dollars (\$75,500).

41702. For the purposes of Section 41703 a "necessary small school" is an elementary school with an average daily attendance of less than 101, exclusive of pupils attending the seventh and eighth grades of a junior high school, during the current fiscal year maintained by an elementary school district which maintains two or more schools and to which school any of the following conditions apply:

(a) If as many as five pupils residing in the district and attending grades kindergarten to 8, inclusive, exclusive of pupils attending the seventh and eighth grades of a junior high school in the elementary school with an average daily attendance of less than 101 would be required to travel more than 10 miles one way from a point on a well-traveled road nearest their home to the nearest other public elementary school.

(b) If as many as 15 pupils residing in the district and attending grades kindergarten to 8, inclusive, exclusive of pupils attending the seventh and eighth grades of a junior high school in the elementary school with an average daily attendance of less than 101 would be required to travel more than five miles one way from a point on a well-traveled road nearest their home to the nearest other public elementary school.

(c) If topographical or other conditions exist in a district which would impose unusual hardships if the number of miles specified in (a) or (b) were required to be traveled or if during the fiscal year the roads which would be traveled have been impassable for more than an average of two weeks per year for the preceding five years, the governing board of the district may, on or before April 1st, request the Superintendent of Public Instruction, in writing, for an exemption from such requirements or for a reduction in the miles required. The request shall be accompanied by a statement of the conditions upon which such request is based, giving such information in such form as the Superintendent of Public Instruction may require. The Superintendent of Public Instruction shall cause an investigation to be made, and he shall either grant such request to the extent deemed necessary by him or deny the request.

41703. (a) For each district on account of each necessary small school (giving regard to the number of teachers actually employed or average daily attendance), he shall make one of the following computations, whichever provides the lesser amount:

(1) For each necessary small school which has an average daily attendance during the fiscal year of less than 26, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least one teacher was hired full time, he shall compute for the district eighteen thousand eight hundred seventy-five dollars (\$18,875).

(2) For each necessary small school which has an average daily attendance during the fiscal year of 26 or more and less than 51, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school at least two teachers were hired full time for more than one-half of the days schools were maintained, he shall compute for the district thirty-seven thousand seven hundred fifty dollars (\$37,750).

(3) For each necessary small school which has an average daily attendance during the fiscal year of 51 or more but less than 76, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school three teachers were hired full time for more than one-half of the days schools were maintained, he shall compute for the district fifty-six thousand six hundred twenty-five dollars (\$56,625).

(4) For each necessary small school which has an average daily attendance during the fiscal year of 76 or more and less than 101, exclusive of pupils attending the seventh and eighth grades of a junior high school, and for which school four teachers were hired full time for more than one-half of the days schools were maintained, he shall compute for the district seventy-five thousand five hundred dollars (\$75,500).

(b) For each district on account of each small school not determined to be a necessary small school under Section 17655 he shall make one of the following computations, whichever applies:

(1) If the total of the units of average daily attendance of the district during the fiscal year, exclusive of pupils attending the seventh and eighth grades of a junior high school, is less than 901, he shall multiply the units of average daily attendance in the school by seven hundred fifty-five dollars (\$755).

(2) If the total of the units of average daily attendance in the district during the fiscal year, exclusive of pupils attending the seventh and eighth grades of a junior high school, is 901 or more, he shall multiply the units of average daily attendance by seven hundred sixty-five dollars (\$765).

41704. For each elementary school district which, exclusive of pupils attending the seventh and eighth grades of a junior high school, has an average daily attendance of 101 or more but less than 901 during the fiscal year, he shall compute an amount determined by multiplying the total average daily attendance, exclusive of pupils attending the seventh and eighth grades of a junior high school and pupils for whom a foundation program is computed under Section 41703, by seven hundred fifty-five dollars (\$755).

For each elementary school district which, exclusive of pupils

attending the seventh and eighth grades of a junior high school, has an average daily attendance of 901 or more during the fiscal year, he shall compute an amount determined by multiplying the total average daily attendance, exclusive of pupils attending the seventh and eighth grades of a junior high school, and pupils for whom a foundation program is computed under Section 41703, by seven hundred sixty-five dollars (\$765).

41705. For each elementary school district with an average daily attendance, exclusive of pupils attending the seventh and eighth grades of a junior high school, of less than 901 during the fiscal year, on account of the attendance during the fiscal year of pupils in the seventh and eighth grades of a junior high school which attendance is credited to the elementary school district pursuant to Sections 46333 and 37072, he shall multiply the average daily attendance in such grades by seven hundred fifty-five dollars (\$755).

For each elementary school district with an average daily attendance, exclusive of pupils attending the seventh and eighth grades of a junior high school, of 901 or more during the fiscal year, on account of the attendance during the fiscal year of pupils in the seventh and eighth grades of a junior high school which attendance is credited to the elementary school district pursuant to Sections 46333 and 37072, he shall multiply the average daily attendance in such grades by seven hundred sixty-five dollars (\$765).

41706. The foundation program for each elementary school district shall be the total of the amounts computed for the district pursuant to Sections 41703, 41704, and 41705.

41707. A necessary small high school for the purposes of Section 41711, is a high school with an average daily attendance of less than 301, or a junior high school with an average daily attendance of less than 75 in grade nine, which comes within any of the following conditions (except that a single high school maintained by a unified district formed under the provisions of Sections 4200 to 35782, inclusive, or formed under Section 35503, or a high school maintained by any district for the exclusive purpose of educating continuation, juvenile hall, physically handicapped, or mentally retarded pupils shall be considered a necessary small high school):

(a) The projection of its future enrollment on the basis of the enrollment of the elementary schools in the district shows that within eight years the enrollment in high school in grades 9 through 12 will exceed 300 pupils.

(b) Any one of the following combinations of distance and units of average daily attendance applies:

(1) The high school had an average daily attendance of less than 100 in grades 9 through 12 during the preceding fiscal year and is more than 15 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 20 miles or 25 percent of the pupils would be required to travel 30 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(2) The high school had an average daily attendance of 100 or more and less than 150 in grades 9 through 12 during the preceding fiscal year and is more than 10 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 18 miles or 25 percent of the pupils would be required to travel 25 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(3) The high school had an average daily attendance of 150 or more and less than 200 in grades 9 through 12 during the preceding fiscal year and is more than 7½ miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 15 miles or 25 percent of the pupils would be required to travel 20 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(4) The high school had an average daily attendance of 200 or more and less than 300 in grades 9 through 12 during the preceding fiscal year and is more than five miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 10 miles or 25 percent of the pupils would be required to travel 15 miles to the nearest other public high school.

(c) Topographical or other conditions exist in the district which would impose unusual hardships on the pupils if the number of miles specified above were required to be traveled. In these cases, the Superintendent of Public Instruction may, when requested, and after investigation, grant exceptions from the distance requirements.

(d) The Superintendent of Public Instruction has approved the recommendation of a county committee on school district organization designating one of two or more schools as necessary isolated schools in a situation where the schools are operated by two or more districts and the average daily attendance of each of the schools is less than 300 in grades 9 through 12.

41708. If a high school is determined to be a necessary small high school under Section 41707, its status as such shall not be changed except as a review of the determinative factors made every five years following the date of the determination, indicates that the determination should be changed.

Any high school district not presently determined to be a necessary small high school district under Section 41707, may be determined to be such at the beginning of any fiscal year; provided, it comes within the provisions of Section 41707.

41709. On and after July 1, 1960, whenever the governing board of a district maintaining a small high school which does not come within the provisions of Section 41707, undertakes any building construction or alteration in respect to that school, of a type requiring the submission of plans to the Department of General Services, the school shall forthwith be classified as an unnecessary small school. Thereafter, the foundation program for the district in respect to that school shall be computed pursuant to Section 41712, notwithstanding an average daily attendance of less than 301.

Prior to the fiscal year a district undertakes any building construction or alteration in respect to a small high school, the foundation program for the district in respect to that school shall be computed pursuant to subdivision (a) of Section 41711, notwithstanding the provisions of Section 41707.

This section shall become operative on July 1, 1975.

41710. Section 41709 does not apply to a high school which meets both of the following criteria:

(a) It is a high school in a high school district which maintains six or more high schools; and,

(b) Since 1948, the attendance area of the high school has been included in three separate proposals for unification with an adjoining high school district and each proposal has been rejected by the electors of the territory involved.

41711. (a) For each district on account of each necessary small high school the Superintendent of Public Instruction shall make one of the following computations selected with regard only to the number of certificated employees employed or average daily attendance, whichever provides the lesser amount:

Average daily attendance	Minimum number of certificated employees	Amount to be computed
1- 20 .....	less than 3	\$16,520
		per teacher
1- 20 .....	3	83,760
21- 40 .....	4	100,280
41- 60 .....	5	116,800
61- 75 .....	6	133,320
76- 90 .....	7	149,840
91-105 .....	8	166,360
106-120 .....	9	182,880
121-135 .....	10	199,400
136-150 .....	11	215,920
151-180 .....	12	232,440
181-220 .....	13	248,960
221-260 .....	14	265,480
261-300 .....	15	282,000

(b) For each district on account of each small high school not determined to be a necessary small high school under Sections 41707, 41708, and 41709, he shall make one of the following computations, whichever applies:

(1) If the total of the units of average daily attendance in the district during the fiscal year is less than 301, he shall multiply the units of average daily attendance during the fiscal year in the school by nine hundred forty dollars (\$940).

(2) If the total of the units of average daily attendance in the district during the fiscal year is more than 300, he shall multiply the units of average daily attendance during the fiscal year in the school

by nine hundred fifty dollars (\$950).

For the purposes of this section a "certificated employee" is an equivalent full-time position of an individual holding a credential authorizing service, and performing service in grades 9 through 12 in any secondary school. Any fraction of an equivalent full-time position shall be deemed to be a full-time position.

The foundation program established by this section for high schools with an average daily attendance of less than 301 shall not apply to any high school established after July 1, 1961 unless the establishment of such schools has been approved by the Superintendent of Public Instruction.

41712. For each high school district which has an average daily attendance of 301 or more during the fiscal year, he shall multiply the average daily attendance by nine hundred fifty dollars (\$950).

41713. For a high school district which has an attendance credited pursuant to Section 46618, he shall multiply the average daily attendance by nine hundred fifty dollars (\$950).

41714. Each computation required by this article for any high school district shall be made after excluding from the average daily attendance for the fiscal year the average daily attendance of adults, as adults are defined in Section 52610, and the average daily attendance in classes for inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults during the fiscal year.

41715. The Superintendent of Public Instruction may increase the various foundation programs in accordance with the specifications in the Budget Act in order to apportion amounts specifically appropriated in the Budget Act for cost increases due to inflation. Such increases shall be effective only during the fiscal year for which such appropriation is made.

In increasing the necessary small school foundation programs computed for elementary school districts with an average daily attendance of less than 101, high school districts with an average daily attendance of less than 301, he shall compute the increase as if it were for the maximum number of pupils allowed in the applicable necessary small school range in which the districts fall.

41716. Except for the areawide foundation programs the Superintendent of Public Instruction shall increase the various foundation programs for each school unit of average daily attendance by sixteen dollars (\$16) in the 1972-73 fiscal year and an additional four dollars (\$4) in each fiscal year thereafter to a maximum of forty dollars (\$40). The Superintendent of Public Instruction shall compute the increased foundation support pursuant to this section as though no areawide school support programs were in operation in the state. The Superintendent of Public Instruction may adjust the small school foundation programs at the elementary and high school levels in accordance with this increase in the regular foundation program.

In addition the Superintendent of Public Instruction shall in

making the computation prescribed in Sections 41761 and 41840 increase the computational tax in Sections 41761 and 41840 by:

(a) Four cents (\$0.04) in the 1972-73 fiscal year and an additional one cent (\$0.01) in each fiscal year thereafter to a maximum of ten cents (\$0.10) in an elementary school district.

(b) Two cents (\$0.02) in the 1972-73 fiscal year and an additional one-half cent (\$0.005) in each fiscal year thereafter to a maximum of five cents (\$0.05) in a high school district.

Further, the Superintendent of Public Instruction shall identify to each school district the amount of increased foundation support granted under this section which shall be used as a limitation on the taxes that may be levied and collected annually under the provisions of Section 23401.

(Amended by Stats 1976, Ch 1011 )

[ORIGINAL SECTION]

41716 Except for the areawide foundation programs the Superintendent of Public Instruction shall increase the various foundation programs for each school unit of average daily attendance by sixteen dollars (\$16) in the 1972-73 fiscal year and an additional four dollars (\$4) in each fiscal year thereafter to a maximum of forty dollars (\$40) The Superintendent of Public Instruction shall compute the increased foundation support pursuant to this section as though no areawide school support programs were in operation in the state The Superintendent of Public Instruction may adjust the small school foundation programs at the elementary and high school levels in accordance with this increase in the regular foundation program

In addition the Superintendent of Public Instruction shall in making the computation prescribed in Sections 41761 and 41840 increase the computational tax in Sections 41761 and 41840 by:

(a) Four cents (\$0.04) in the 1972-73 fiscal year and an additional one cent (\$0.01) in each fiscal year thereafter to a maximum of ten cents (\$0.10) in an elementary school district

(b) Two cents (\$0.02) in the 1972-73 fiscal year and an additional one-half cent (0.005) in each fiscal year thereafter to a maximum of five cents (\$0.05) in a high school district

Further, the Superintendent of Public Instruction shall identify to each school district the amount of increased foundation support granted under this section which shall be used as a limitation on the taxes that may be levied and collected annually under the provisions of Section 23401

41717. For the 1975-76 fiscal year and fiscal years thereafter, the Superintendent of Public Instruction shall make adjustments in the small school foundation program amounts specified in Section 41701, subdivision (a) of Section 41703, and subdivision (a) of Section 41711, proportionate to the corresponding foundation program changes for other schools.

41718. (a) For the 1975-76 fiscal year, each elementary and high school foundation program shall be increased by an amount up to ninety-one dollars (\$91) but not less than eighty-four dollars (\$84) as determined by the Superintendent of Public Instruction except that if the percentage increase of the statewide ratio of assessed valuation per unit of average daily attendance in kindergarten and grades 1 to 12, inclusive, determined in subdivision (e) of Section 14002 is less than seven, the amount shall be reduced proportionately, but to no less than seventy-four dollars (\$74).

(b) For the 1976-77 fiscal year, each elementary and high school foundation program shall be increased by sixty-six dollars (\$66) except that if the percentage increase of the statewide ratio of assessed valuation per unit of average daily attendance in kindergarten and grades 1 to 12, inclusive, determined in subdivision (e) of Section 14002 is less than seven, the sixty-six dollars (\$66) shall be reduced proportionately, but to no less than fifty-six dollars (\$56).

(c) For the 1977-78 fiscal year and fiscal years thereafter, and if the Legislature does not provide otherwise, the increase in elementary and high school foundation programs shall be 6 percent times an amount which is determined as follows: (1) multiply the unit elementary school foundation program for unified districts which have an elementary average daily attendance of 901 or more by the elementary foundation program units of average daily attendance of unified districts with 901 or more elementary average daily attendance, plus (2) multiply the unit high school foundation program for unified districts which have a high school average daily attendance of 301 or more, by the average daily attendance of unified school districts with 301 or more high school average daily attendance, and (3) divide the result by the sum of the average daily attendance in unified districts with 901 or more elementary average daily attendance plus the average daily attendance in unified districts with 301 or more high school average daily attendance.

## Article 2. Foundation Program for Efficiently Organized Districts

41730. For school districts which are eligible, commencing with the 1967-1968 fiscal year, under the standards prescribed by this article, the Superintendent of Public Instruction shall compute increases in the applicable foundation program or programs as follows:

(a) He shall increase the foundation program computed for a district under Sections 41703, 41704, and 41705 by twenty dollars (\$20) per pupil in average daily attendance.

(b) He shall increase the foundation program computed for a district under Sections 41711, 41712 and 41713 by twenty dollars (\$20) per pupil in average daily attendance, excluding the average daily attendance of adults, as adults are defined in Section 52610, and the average daily attendance in classes for inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults during the fiscal year.

41731. The increase in foundation programs prescribed by this article shall be provided for each school district which, in organizational characteristics, meets all of the following standards during the fiscal year, as determined by the State Board of Education and certified to the Superintendent of Public Instruction:

(a) The district is unified, maintaining and supporting schools providing instruction in grades kindergarten or 1 through 12,

inclusive, or is an elementary school district or a high school district included as a part of a unified school district formed by approval of the electors at an election held between January 1st and June 30th of the preceding fiscal year.

(b) The unified school district has a total average daily attendance during the fiscal year in grades kindergarten or 1 through 12, inclusive, of no less than 2,000 as projected to June 30, 1968, pursuant to rules and regulations of the State Board of Education, excluding for such purposes the average daily attendance of adults as adults are defined in Section 52610, and the average daily attendance in special day and evening classes and summer schools.

41732. Notwithstanding the provisions of Section 41731, or any other other provision of law to the contrary, the increase in foundation programs prescribed by Section 41730 shall also be provided during a fiscal year for any school district which is an elementary school district or a high school district included on or before May 1 of such fiscal year in a unified school district formed by approval of the electors at an election held after June 30, 1966, provided that such unified school district meets the requirements of subdivision (b) of Section 41731.

If a unified district, which meets the requirements of subdivision (b) of Section 41731, is formed by approval of the electors at an election held on the date of the presidential or gubernatorial primary election, the increase in foundation programs prescribed by Section 41730 shall be provided for each included elementary and high school district as if the election were held on or before May 1, except that the Superintendent of Public Instruction shall allow such increases during the next fiscal year pursuant to the provisions of Section 41341, as a correction of the apportionments to the district for the preceding fiscal year.

41733. Irrespective of whether or not any or all of the standards prescribed by Section 41731 are complied with, the increased foundation programs prescribed by Section 41730 shall be provided for any school district which:

(a) Is organized to include all of the territory under the jurisdiction of the county superintendent of schools of a county for purposes of maintaining or otherwise providing for the maintenance of grades kindergarten or 1 through 12.

(b) Maintains any or all of grades kindergarten or 1 through 12, but with respect to which the State Board of Education determines, and certifies to the Superintendent of Public Instruction, that failure to meet the standards arises solely from sparsity of population and geographic isolation of a degree which renders compliance with the standards of Section 41731 unfeasible.

(c) Was a unified district in effect for all purposes on or before July 1, 1964.

41734. The increases in foundation programs prescribed by Section 41730 shall in no event be provided for any school district for any elementary school with an average daily attendance of less than

101 which does not qualify as a "necessary small school" under Section 41702, or any high school with an average daily attendance of less than 301 which does not qualify as a "necessary small high school" under Section 41707.

41735. The foundation program computed under Article 1 (commencing with Section 41700) of this chapter for any school district which is not otherwise eligible for the increase in foundation program prescribed by Section 41730 shall, nevertheless, be increased in the fiscal year by twenty dollars (\$20) for each unit of average daily attendance of the district, exclusive of the average daily attendance of adults, as adults are defined in Section 52610, and the average daily attendance in classes for inmates of any state institution for adults or of any city, county, or city and county jail, road camp, or farm for adults, for the fiscal year if:

(1) The Superintendent of Public Instruction determines that:

(a) The district was included within territory proposed for reorganization by a master plan or plans and recommendations developed under Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1 and Article 11 (commencing with Section 35780) and Article 12 (commencing with Section 35800) of Chapter 3 of Part 21 of Division 3 of this title which master plan or plans and recommendations complied with the standards prescribed by Section 41731 or Section 41733.

(b) The master plan or plans and recommendations were defeated at an election held within the territory involved after the effective date of this section and;

(c) A majority of the votes cast in the district at the most recent such election were cast in favor of the reorganization proposed;

or

(2) The Superintendent of Public Instruction finds that:

(a) The district is an elementary district lying within two or more high school districts;

(b) The total territory of the district, including each separate portion lying within two or more high school districts, was included within territory proposed for reorganization by one or more master plans or plans and recommendations developed under Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1 and Article 11 (commencing with Section 35780) and Article 12 (commencing with Section 35800) of Chapter 3 of Part 21 of Division 3 of this title for which each such master plan or plans and recommendations complied with the standards prescribed by Section 41731 or Section 41733;

(c) All of such master plans or plans and recommendations were voted upon at an election held within the territory involved during the preceding fiscal year;

(d) Regardless of the outcome of such election, the unified districts would have been effective for all purposes on the same date if all of such elections had been successful; and

(e) A majority of the votes cast in the district in all separate

proposals were cast in favor of the reorganization proposed; and (3) the election involved was held prior to July 1, 1972.

### Article 3. Areawide Elementary School and High School Foundation Programs

41750. For the purpose of apportionments during a fiscal year as specified in Section 41762, and fiscal years thereafter, the Superintendent of Public Instruction shall compute an areawide foundation program for all of the elementary school districts, and an areawide foundation program for all of the high school districts, included within a master plan formulated under Article 2 (commencing with Section 4240) of Chapter 2 of Part 3 of Division 1 of Title 1 or plans and recommendations formulated under Article 1 (commencing with Section 4200), Article 3 (commencing with Section 4280), Article 4 (commencing with Section 4290), Article 5 (commencing with Section 4310), Article 6 (commencing with Section 4320), Article 7 (commencing with Section 4360), and Article 8 (commencing with Section 4400) of Chapter 2 of Part 3 of Division 1 of Title 1 and Article 11 (commencing with Section 35780) and Article 12 (commencing with Section 35800) of Chapter 3 of Part 21 of Division 3 of this title, except such districts as are included in plans and recommendations meeting the requirements of Section 4200, for the formation of a unified district as an intermediate step to further unification which have been approved by the electors, which were disapproved at an election held within the territory involved on the question of whether such master plan or plans and recommendations should be put into effect. An areawide foundation program shall be computed for the elementary school districts only if there were two or more elementary school districts included within such master plan or plans and recommendations, and shall be computed for the high school districts only if there were two or more high school districts included within such master plans or plans and recommendations. The areawide foundation program in each instance shall be the total of the foundation programs computed under Article 1 (commencing with Section 41700) and Article 2 (commencing with Section 41730) of this chapter for elementary school districts and high school districts.

(Amended, as added by Stats 1976, Ch. 1010, by Stats. 1976, Ch. 1011.)

#### [ORIGINAL SECTION]

41750. For the purpose of apportionments during a fiscal year as specified in Section 41762, and fiscal years thereafter, the Superintendent of Public Instruction shall compute an areawide foundation program for all of the elementary school districts, and an areawide foundation program for all of the high school districts, included within a master plan formulated under Article 2 (commencing with Section 4240) of Chapter 2 of Part 3 of Division 1 of Title 1 or plans and recommendations formulated under Article 1 (commencing with Section 4200), Article 3 (commencing with Section 4280), Article 4 (commencing with Section 4290), Article 5 (commencing with Section 4310), Article 6 (commencing with Section 4320), Article 7 (commencing with Section 4360), and Article 8 (commencing with Section 4400) of Chapter 2 of Part 3 of Division 1 of Title 1 and Article 11 (commencing with Section 35780) and Article 12 (commencing with Section 35800) of Chapter 3 of Part 21 of Division 3 of this title,

except such districts as are included in plans and recommendations meeting the requirements of Section 4200, for the formation of a unified district as an intermediate step to further unification which have been approved by the electors, which were disapproved at an election held within the territory involved on the question of whether such master plan or plans and recommendations should be put into effect. An areawide foundation program shall be computed for the elementary school districts only if there were two or more elementary school districts included within such master plan or plans and recommendations, and shall be computed for the high school districts only if there were two or more high school districts included within such master plans and plans and recommendations. The areawide foundation program in each instance shall be the total of the foundation programs computed under Article 1 (commencing with Section 41700) and Article 2 (commencing with Section 41730) of this chapter for elementary school districts and high school districts.

41751. The provisions of this article shall not be applicable to the territory of any school district included in a unification proposal, pursuant to the provisions of Chapter 1246 of the Statutes of 1967, which was rejected by the electorate, and which has been restored to existence as a separate elementary school district or high school district, as the case may be, pursuant to the provisions of Chapter 1246 of the Statutes of 1967.

#### Article 4. Computation of District Aid and Areawide Aid

41760. On or before November 15th of each year, the county auditor of each county shall furnish to the Superintendent of Public Instruction the assessed valuation and tax rates of each school district or portion of school district situated within his county, as shown by the equalized assessment roll of the county for the year.

41761. The Superintendent of Public Instruction shall compute for each district described herein which does not come within the provisions of Section 41762 the amount, to be known as district aid, which a tax levied on each one hundred dollars (\$100) of 100 percent of the assessed valuation in such district as shown by the equalized assessment roll of the district for the current year, as modified pursuant to Section 41201, would produce if levied, if such tax was:

(a) Two dollars and twenty-three cents (\$2.23) in an elementary school district.

(b) One dollar and sixty-four cents (\$1.64) in a high school district.

41762. The Superintendent of Public Instruction shall compute the areawide aid to be utilized in determining state apportionments to be made for the support of elementary school districts and high school districts with respect to which an areawide foundation program is computed under Article 3 (commencing with Section 41750) of this chapter. Areawide aid shall be the amount which a tax levied on each one hundred dollars (\$100) of 100 percent of the assessed valuation for the current fiscal year, modified where necessary pursuant to Section 41201, of the area comprising all of such elementary school districts and all of such high school districts would produce, if levied, if such tax were: (a) in the case of the elementary school district area, one dollar (\$1); and (b) in the case of the high school district area, eighty cents (\$0.80).

If the Superintendent of Public Instruction finds that the difference obtained by subtracting the areawide aid as computed under the above provisions of this section from the areawide foundation program is less than the product obtained by multiplying the average daily attendance used for foundation program purposes by one hundred twenty-five dollars (\$125), he shall reduce the areawide aid to an amount which, when added to such product, will equal the amount of the areawide foundation program.

41763. For purposes of making the computations prescribed by Section 41762, the Superintendent of Public Instruction shall, where necessary, adjust the assessed valuation of the territory involved, in the same manner and on the same basis as is required for individual districts pursuant to Chapter 2 (commencing with Section 41200) of this part and Sections 41766, 41767, and 41768. Losses in state equalization aid and supplemental support arising from the operation of Chapter 2 (commencing with Section 41200) of this part, shall be provided for in the manner prescribed in Section 41203.

41764. The provisions of Sections 41762 and 41769 shall not be applicable to the territory of any school district included in a unification proposal, pursuant to the provisions of Chapter 1246 of the Statutes of 1967, which was rejected by the electorate, and which has been restored to existence as a separate elementary school district or high school district, as the case may be, pursuant to the provisions of Chapter 1246 of the Statutes of 1967.

41765. Effective July 1, 1974, any elementary school district located in a county of the 39th class shall be excluded from the application of the provisions of Sections 41750 and 41762 and Chapter 8 (commencing with Section 42400) of this part, and shall be deemed to be a single elementary district for purposes of school apportionments and school district property taxation, when all of the following qualifications are met.

(1) It is an elementary district which had an average daily attendance in 1972-73 between 250 and 400, inclusive.

(2) It is an elementary district which has been included in at least two proposals for the formation of a unified district, none of which have been adopted by the electorate of the area.

(3) It is an elementary district which, if treated as a single district for school apportionment purposes, would have been apportioned only basic state aid.

(4) It is an elementary district which, when included in an areawide tax support program for elementary schools, would have been allocated in areawide aid at least forty-five thousand dollars (\$45,000) less than the amount produced by the areawide tax in that district.

41766. (a) Upon the request of the district, the Superintendent of Public Instruction shall use in computing district aid the difference between: (1) the total assessed valuation of property in a district as shown on the equalized assessment roll for the fiscal year; and (2) the assessed valuation of property as shown on the equalized assessment

roll for the fiscal year, with respect to which revenues of the district taxes levied in the 1954-1955 fiscal year, or thereafter, are impounded, or could, if paid, be impounded, by the county auditor pursuant to Section 14240. The county auditor shall from time to time determine and certify to the Superintendent of Public Instruction the amounts of assessed valuation of property described in subpart (2) of the preceding sentence.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, or of the receipt of tax revenues which would have been impounded if paid when due, the Superintendent of Public Instruction shall compute and certify to the Controller the amount to be deducted, and the Controller shall deduct, from the apportionment or apportionments from the State School Fund to the district, in the first fiscal year or the second fiscal year succeeding such notification of release or receipt, that amount apportioned to the district in any prior year or years by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released, or with respect to tax revenues which would have been impounded, if paid when due, and which were subsequently paid, as the case may be, plus interest of 3½ percent compounded annually.

The provisions of this section shall not apply to impounded tax receipts derived from assessment of water, where the procedures of Section 41767 have been utilized.

41767. When the total tax revenues realized in respect to any school district from the levy of district taxes for any fiscal year are less than would have been realized from the total assessed value of property in the district because of allocations of tax receipts to a redevelopment agency pursuant to Article 6 (commencing at Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code, the governing board of a school district may request the Superintendent of Public Instruction to compute district aid for the district under this section. Upon receipt of such a request, the Superintendent of Public Instruction shall, in computing district aid, reduce the amount of the total assessed valuation in the district as shown by the equalized assessment roll for the year by the amount of such assessed valuation upon which such tax receipts for such fiscal year are to be allocated to the redevelopment agency.

41768. (a) Upon request of a district, the Superintendent of Public Instruction shall use in computing district aid the total assessed valuation of property in a district as shown on the equalized assessment roll for the fiscal year, reduced by the portion thereof representing the total assessed valuation of water with respect to which revenues of the district taxes levied in the 1958-1959 fiscal year or thereafter are impounded by the county auditor pursuant to Section 26906.1 of the Government Code.

(b) Whenever, after July 1, 1959, the county auditor notifies the Superintendent of Public Instruction and the Controller of the

release of such impounded tax revenues to the school district, the Superintendent of Public Instruction shall compute and certify to the Controller the amount to be deducted, and the Controller shall deduct, from the apportionment or apportionments from the State School Fund to the district, in the first fiscal year or the second fiscal year succeeding such notification of release, that amount apportioned to the district in any prior year or years by reason of the exclusion under this section, of assessed valuation with respect to tax revenues impounded and thereafter released.

41769. The Superintendent of Public Instruction shall determine the individual areawide aid for each elementary district included within territory for which an areawide foundation program was computed pursuant to Article 3 (commencing with Section 41750) of this chapter, by: (1) dividing the total areawide aid derived by the elementary school districts in the territory under Section 41762, by (2) the areawide foundation program derived for the territory under Section 41750, and (3) multiplying the quotient by the foundation program computed for each district under Article 1 (commencing with Section 41700) and Article 2 (commencing with Section 41730) of this chapter.

He shall determine the individual areawide aid for each high school district included within territory for which an areawide foundation program was computed pursuant to Article 3 (commencing with Section 41750) of this chapter, by: (1) dividing the total areawide aid derived for the high school districts in the territory under Section 41762, by (2) the areawide foundation program derived for the territory under Section 41750, and (3) multiplying the quotient by the foundation program computed for each district under Article 1 (commencing with Section 41700) and Article 2 (commencing with Section 41730) of this chapter.

The district aid for an elementary school district within an area shall be the sum of the prorated areawide aid received by the district and the yield of one dollar and twenty-three cents (\$1.23) levied on each one hundred dollars (\$100) of 100 percent of the assessed valuation in such district modified pursuant to Section 41201. The district aid for a high school district within an area shall be the sum of the prorated areawide aid received by the district and the yield of eighty-four cents (\$0.84) levied on each one hundred dollars (\$100) of assessed valuation in such district modified pursuant to Section 41201.

41770. For the purpose of computing allowances and apportionments, other than severance aid, from the State School Fund for districts qualifying for severance aid as provided in Section 41960, the total assessed valuation in the district as shown by the equalized assessment roll shall be increased as follows: For the first year qualifying property is excluded from the assessment roll as exempt property, there shall be added to the total assessed valuation an amount equal to the assessed value of said qualifying property as used to compute the amount of severance aid. The next following

year there shall be added to the total assessed valuation four-fifths of the assessed value of qualifying property as used to compute the amount of severance aid; the second following year there shall be added three-fifths of said assessed value; the third following year there shall be added two-fifths of said assessed value, and the fourth following year there shall be added one-fifth of said assessed value.

In the event more than one allowance of severance aid is payable because qualifying property is acquired during more than one fiscal year, the increase in total assessed valuation required by this section shall be made separately as to qualifying property acquired in each such year.

“Qualifying property” for the purposes of this section means property acquired for state highway purposes which, by reason of its assessed value, either alone or in combination with other property, and the identity of the acquiring agency or agencies, qualifies the district to receive severance aid.

41771. Whenever the assessed valuation of motion pictures, including the negatives and prints thereof, is lowered because of the operation of Section 988 of the Revenue and Taxation Code and whenever any school district receives replacement funds from the state for the loss of revenue to a district occasioned by the operation of Section 988, the Superintendent of Public Instruction shall, in computing district aid, add the amount of assessed valuation which was the basis for the allocation of state replacement funds to the actual assessed value of the district before computing apportionments to the districts.

41772. Whenever, subsequent to the date of formulation of the last equalized assessment roll in a county, the county superintendent of schools finds that the assessment equalizations conducted under Part 3 (commencing with Section 1601) of Division 1 of the Revenue and Taxation Code have resulted in a substantial reduction or increase in the assessed valuation of property of a school district as compared to that reported pursuant to Section 17701, the county auditor shall notify and furnish to the Superintendent of Public Instruction, on or before the 15th of April in the fiscal year, the corrected assessed valuation of property within the district. The Superintendent of Public Instruction shall utilize the corrected valuation amounts for purposes of making all computations prescribed by this article for the district for this fiscal year. Upon receipt thereof, the Superintendent of Public Instruction shall make the necessary revisions in all computations affecting the district made under this article.

41773. The Superintendent of Public Instruction shall, in computing district aid, add the amount of assessed valuation which was the basis for the allocation of state replacement funds pursuant to Section 41052 to the actual assessed valuation of the district before computing apportionments to the district.

### Article 5. Basic State Aid for Elementary School Districts

41790. The Superintendent of Public Instruction shall allow one hundred twenty-five dollars (\$125) to each elementary school district for each unit of average daily attendance therein during the fiscal year as computed for the district under Sections 46117 and 46333, but not less than two thousand four hundred dollars (\$2,400) shall be allowed to any elementary school district, to be known as basic state aid.

### Article 6. Basic State Aid for High School Districts

41800. The Superintendent of Public Instruction shall allow to each high school district one hundred twenty-five dollars (\$125) for each unit of average daily attendance in the district during the fiscal year as computed under Sections 46332 and 46350, subject to the provisions of Section 41608, but not less than two thousand four hundred dollars (\$2,400) shall be allowed to any high school district, to be known as basic state aid.

The Superintendent of Public Instruction shall exclude from the computation of allowances provided by this section the average daily attendance during the fiscal year of adults, as adults are defined in Section 52610, and of inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults.

### Article 7. Allowances for Equalization Aid

41810. The Superintendent of Public Instruction shall compare the total of the amounts allowed to, and computed for, each elementary district pursuant to Section 41790 and Section 41761 or Section 41769, whichever applies, with the amount of the foundation program of school support computed for each such district pursuant to Sections 41700 to 41750, inclusive.

If the total amount allowed to, and computed for, any elementary school district pursuant to Section 41790 and Section 41761 or Section 41769, whichever applies, is less than the amount of the foundation program of school support computed for such district pursuant to Sections 41700 to 41750, inclusive, he shall add to the amount computed for such district pursuant to Section 41790 and Section 41761 or Section 41769, whichever applies such additional amount, to be known as state equalization aid, as may be necessary to equal that computed for such district pursuant to Sections 41700 to 41750, inclusive.

41811. The Superintendent of Public Instruction shall compare the total of the amounts allowed to, and computed for, each high school district pursuant to Section 41761 or Section 41769, whichever applies, and Section 41800, with the amount of the foundation program of school support computed for each such district pursuant

to Sections 41700 to 41750, inclusive.

If the total amount allowed to, and computed for, any high school district pursuant to Section 41761 or Section 41769, whichever applies, and Section 41800, is less than the amount of the foundation program of school support computed for such district pursuant to Sections 41700 to 41750, inclusive, he shall add to the amount allowed to, and computed for such district pursuant to Section 41761 or Section 41769, whichever applies, and Section 41800, such additional amount, to be known as state equalization aid, as may be necessary to equal that computed for such district pursuant to Sections 41700 to 41750, inclusive.

41812. No state equalization aid shall be allowed unless there shall have been levied pursuant to this code, for a district during the fiscal year, a tax, exclusive of taxes levied under Sections 8329, 15250, 15742, 16090, 42200, and 56811 of not less than one dollar (\$1) if an elementary district, eighty cents (\$.80) if a high school district, and one dollar and eighty cents (\$1.80) if a unified district.

41813. No state equalization aid shall be allowed under Sections 41810, 41811, and 84770 to any district included within a unified school district unless there shall have been levied, pursuant to this code, for such unified school district during the fiscal year, exclusive of tax levied under Sections 15250, 15742, 16090, 42200, and 56811, a tax in not less than the amount determined by adding the rates of tax required to be levied under Section 41812, as may be applicable for each type of district included within the unified school district.

41814. The Superintendent of Public Instruction shall compute the state equalization aid pursuant to this article upon the basis that the district's assessed value has not been reduced by the partial exemption for business inventories in the district or reduced by the homeowner's property tax exemption.

#### Article 8. Adjustment of Allowances

41830. Notwithstanding the provisions of Articles 5, 6, and 7 (commencing with Sections 41790, 41800, and 41810, respectively) of this chapter, or any other provision of law to the contrary, if the computation made under Article 7 (commencing with Section 41810) of this chapter for any grade level maintained by a district, results in no allowance of equalization aid for such district for such grade level, the amount allowable therefor to such district under said Articles 5, 6, and 7 (commencing with Sections 41790, 41800, and 41810, respectively) of this chapter, per unit of the particular categories of average daily attendance used for such computations, shall be one hundred twenty-five dollars (\$125) per unit of such average daily attendance during the preceding fiscal year.

## Article 8.5. Summer School Adjustment

41835. The foundation program for each unit of average daily attendance during the 1976-77 fiscal year, and years thereafter, for pupils enrolled in summer schools shall be determined as follows:

(a) For elementary school pupils enrolled in summer schools the foundation program shall be 80 percent of the foundation program level provided by Article 1 (commencing with Section 41700), Article 2 (commencing with Section 41730), and Article 3 (commencing with Section 41750) of, this chapter, for elementary school average daily attendance.

(b) For high school pupils enrolled in summer schools, the foundation program shall be 80 percent of the foundation program level provided by Article 1 (commencing with Section 41700), Article 2 (commencing with Section 41730), and Article 3 (commencing with Section 41750) of, this chapter, for high school average daily attendance.

## Article 9. Computation—School Districts for Education of Adults and Inmates

41840. The allowance for each unit of average daily attendance for high school districts during the fiscal year for adults, as adults are defined in Section 52610, shall be four hundred thirteen dollars (\$413) less the product of fifty cents (\$.50) multiplied by each one hundred dollars (\$100) of the assessed valuation of the district, as modified pursuant to Section 41201, per unit of average daily attendance exclusive of adults.

For fiscal year 1975-76, the foundation program for adults, as defined in Section 52610, in high schools shall be increased by twenty-nine dollars (\$29). For fiscal year 1976-77, the foundation program for adults, as defined, in high schools shall be increased by thirty-one dollars (\$31). For each subsequent fiscal year, the foundation program for adults, as defined, in high schools for the previous fiscal year shall be increased by 6 percent.

The foundation programs provided by this section for each unit of average daily attendance of an adult, as an adult is defined in Section 52610 not residing in the district shall be limited to one hundred twenty-five dollars (\$125) as basic state aid and no allowance shall be made based on state equalization aid. The total of basic and equalization aid allowed each district shall not be less than one hundred twenty-five dollars (\$125) for each unit of average daily attendance during the fiscal year for resident adults, exclusive of average daily attendance in classes for inmates of any state institution for adults and for inmates of any city, county, or city and county jail, road camp or farm for adults; unless the inmate is attending a program pursuant to Section 2690 of the Penal Code, in which case such attendance shall be included.

## Article 10. Allowances for Transportation

41850. The Superintendent of Public Instruction shall not allow under this article, except under Section 41863, whichever is in effect, during any fiscal year a total amount in excess of the amount provided by law.

41851. The Superintendent of Public Instruction shall allow to each school district and county school service fund such amount as is required by this article.

41852. (a) "Transportation" as used in this article means, unless the context otherwise requires:

(1) The transportation of pupils between their homes and the regular full-time day schools attended by them as provided by a school district.

(2) The payment of moneys by a school district to parents or guardians of pupils in lieu of providing for the transportation of such pupils between their homes and the regular full-time day schools attended by them.

(3) The providing of board and lodging to pupils by a school district in lieu of providing for the transportation of such pupils between their homes and the regular full-time day schools attended by them.

(b) "Pupils" as used in this article does not include pupils for whom the Superintendent of Public Instruction determines excess costs under Section 56721.

(c) "Total current expenses of transportation" as used in Sections 41856, 41857, and 41859 does not include:

(1) Current expenses for the transportation of pupils for whose transportation the Superintendent of Public Instruction makes an allowance to the district under Section 41863 or whichever is in effect; or,

(2) Any amount of rental of schoolbuses which is in excess of the amount allowable to school districts for replacement of district-owned buses in accordance with regulations of the Superintendent of Public Instruction relating to allowances for pupil transportation. Renting or leasing a schoolbus does not include a lease with option to purchase.

41853. The Superintendent of Public Instruction shall make all allowances under this article during a fiscal year in accordance with regulations, not in conflict with this article, adopted by him, and he is hereby authorized and directed to adopt such regulations. None of such regulations shall be binding upon any school district, but no allowance shall be made under this article to a school district for any item of current expense or capital outlay with respect to which the school district has failed to comply with the regulations of the Superintendent of Public Instruction applicable to such item.

The regulations adopted by the Superintendent of Public Instruction hereunder shall, among other matters:

(a) Prescribe the records to be kept by, and reports to be made

by, school districts.

(b) Fix the minimum distances for the sole purpose of determining the total current expenses of a district for transportation.

(c) Determine what expenditures constitute "current expenses."

(d) Establish and prescribe formulae for the sole purpose of computing financial allowances under which schoolbuses may be acquired in accordance with the provisions of Section 41860.

(e) Provide for the review and approval of all expenditures upon which allowances are computed.

(f) Establish and prescribe formulae for the sole purpose of computing financial allowances for reimbursement of replacement expenses incurred by a school district replacing schoolbuses.

41854. For purposes of any regulation making the time or hours during a schoolday during which a schoolbus is operated, a factor in the computation of transportation allowances, the Superintendent of Public Instruction shall utilize no less than the period of time between the time when the schoolbus departs from the location in which it is customarily stationed when not in use, and the time when the schoolbus is returned there at the end of the day, excluding the time during which the schoolbus is not in use between trips during the day.

41855. Of the funds allocated for expenditure for transportation in each fiscal year, there shall be reserved the amount necessary to provide the allowances prescribed by this section, but not to exceed one and one-half percent (1.5%) of the amount designated in subdivision (b) of Section 41301.

The allowances prescribed by this section shall be provided in each fiscal year for any eligible school district upon application therefor submitted to the Superintendent of Public Instruction by the governing board of such district. Such allowance shall be provided only if the Superintendent of Public Instruction determines that the transportation expense of the district for the preceding fiscal year is substantially affected by sparsity of population in all or a portion of the district, such as to require that excessive distances be traveled to transport relatively few pupils to the regular day classes of the district.

The Superintendent of Public Instruction shall allow to each eligible district the amount computed as follows:

(a) He shall compute from the annual report of transportation expense of the district the portion of the total transportation expense which is due to travel for excessive distances to transport relatively few pupils.

(b) He shall compute from the annual report of transportation expense of the district, prior to the application of any deficit under Section 41865, the percentage of the approved transportation expense represented by the allowances to the district provided by the other provisions of this article, exclusive of any allowances provided by subdivision (a) of Section 41857 and Section 41860.

(c) He shall multiply the portion of the total transportation expense computed under subdivision (a) by the percentage computed under subdivision (b).

The Superintendent of Public Instruction may adopt rules and regulations defining "excessive distances" and "relatively few pupils," and making provision for any other matter he may deem essential to the effective administration of this section.

41856. (a) He shall allow to each elementary school district, and high school district, except as to any to which subsections (b), (c) and (d) of this section or Section 41859 is applicable, which during the preceding fiscal year provided for the transportation of pupils, an amount which shall be computed as follows:

He shall determine the total current expenses of the district for such transportation during the preceding fiscal year. He shall then determine what rate of tax levied on each one hundred dollars (\$100) of the assessed valuation of the district as shown by the equalized assessment roll of the district for the preceding fiscal year, hereinafter referred to in this section as computed tax rate, would, if levied, produce such amount. If the computed rate of tax is more than two cents (\$0.02) he shall allow to the district (1) 50 percent of the amount which would be produced by not more than eight cents (\$0.08) of the computed tax rate less two cents (\$0.02), (2) 75 percent of the amount which would be produced by not more than sixteen cents (\$0.16) of computed tax less eight cents (\$0.08), (3) 80 percent of the amount which would be produced by not more than twenty-four cents (\$0.24) of the computed tax less sixteen cents (\$0.16), and (4) 90 percent of the amount which would be produced by the computed tax less twenty-four cents (\$0.24).

(b) He shall allow to each elementary school district which is not a part of a high school district and which during the preceding fiscal year provided for the transportation of pupils to the elementary schools of the district and to one or more high schools in other districts an amount which shall be computed as follows:

He shall determine the total current expenses of the districts for such transportation during the preceding fiscal year. He shall then determine what rate of tax levied on each one hundred dollars (\$100) of the assessed valuation of the district as shown by the equalized assessment role of the district for the preceding fiscal year, hereinafter referred to in this section as computed tax rate, would, if levied, produce such amount. If the computed rate of tax is more than four cents (\$0.04) he shall allow to the district (1) 50 percent of the amount which would be produced by not more than sixteen cents (\$0.16) of the computed tax rate less four cents (\$0.04), (2) 75 percent of the amount which would be produced by not more than thirty-two cents (\$0.32) of the computed tax rate less sixteen cents (\$0.16), (3) 80 percent of the amount which would be produced by not more than forty-eight cents (\$0.48) of the computed tax rate less thirty-two cents (\$0.32), and (4) 90 percent of the amount which would be produced by the computed tax rate less forty-eight cents (\$0.48).

If an elementary district which is not a part of a high school district provides only for the transportation of pupils to a high school, an amount shall be computed as provided in subdivision (a) of this section.

(c) He shall allow to each high school district not a part of any community college district which during the preceding fiscal year provided for the transportation of pupils to the high schools of the district and pupils attending community colleges maintained by other districts an amount which shall be computed as follows:

He shall determine the total current expenses of the districts for such transportation during the preceding fiscal year. He shall then determine what rate of tax levied on each one hundred dollars (\$100) of the assessed valuation of the district as shown by the equalized assessment roll of the district for the preceding fiscal year, hereinafter referred to in this section as computed tax rate, would, if levied, produce such amount. If the computed rate of tax is more than four cents (\$.04) he shall allow to the district (1) 50 percent of the amount which would be produced by not more than sixteen cents (\$.16) of the computed tax rate less four cents (\$.04), (2) 75 percent of the amount which would be produced by not more than thirty-two cents (\$.32) of the computed tax rate less sixteen cents (\$.16), (3) 80 percent of the amount which would be produced by not more than forty-eight cents (\$.48) of the computed tax rate less thirty-two cents (\$.32), and (4) 90 percent of the amount which would be produced by the computed tax rate less forty-eight cents (\$.48).

If a high school district which is not a part of a community college district provides only for the transportation of pupils to a community college, an amount shall be computed as provided in subdivision (a) of this section.

141857. (a) He shall allow to each unified school district formed under the provisions of Sections 4240 to 4419, inclusive, and Sections 35780 to 35810, inclusive, the formation of which became effective on July 1, 1948, or thereafter, an amount equal to the total current expenses of the district during the preceding fiscal year for the transportation of pupils, determined by the Superintendent of Public Instruction to have been required because of a change of the location of schoolhouses or the reorganization of attendance centers within the district during such preceding fiscal year. No allowance shall be made under this paragraph subsequent to the close of the fifth fiscal year following that in which the district was formed and thereafter the provisions of subsection (b) or (c) of this section shall control as to such district.

(b) He shall allow to each unified school district not maintaining a community college which during the preceding fiscal year provided for the transportation of pupils, an amount which shall be computed as follows:

He shall determine the total current expenses of the district for

such transportation during the preceding fiscal year. He shall then determine what rate of tax levied on each one hundred dollars (\$100) of the assessed valuation of the district as shown by the equalized assessment roll of the district for the preceding fiscal year, hereinafter referred to in this section as computed tax rate, would, if levied, produce such amount. If the computed rate of tax is more than three cents (\$.03) he shall allow to the district (1) 50 percent of the amount which would be produced by not more than twelve cents (\$.12) of the computed tax rate less three cents (\$.03), (2) 75 percent of the amount which would be produced by not more than twenty-four cents (\$.24) of the computed tax rate less twelve cents (\$.12), (3) 80 percent of the amount which would be produced by not more than thirty-six cents (\$.36) of the computed tax rate less twenty-four cents (\$.24), and (4) 90 percent of the amount which would be produced by the computed tax rates less thirty-six cents (\$.36).

41858. Whenever a unified district is formed under Section 35503, if such formation occurred without any affirmative action taken by the electors of such district, and if it is necessary for the newly formed unified district, because of lack of adequate facilities, to contract with another school district under the provisions of Section 46304 for the education of a part of its day pupils, the Superintendent of Public Instruction shall allow to such district an amount equal to the total current expenses for the transportation of pupils determined by him to have been required because of the education of pupils in another district. No allowance shall be approved under this section subsequent to the close of the third fiscal year following that in which the district was formed.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

41858. Whenever a unified district is formed under Section 1976, if such formation occurred without any affirmative action taken by the electors of such district, and if it is necessary for the newly formed unified district, because of lack of adequate facilities, to contract with another school district under the provisions of Section 46304 for the education of a part of its day pupils, the Superintendent of Public Instruction shall allow to such district an amount equal to the total current expenses for the transportation of pupils determined by him to have been required because of the education of pupils in another district. No allowance shall be approved under this section subsequent to the close of the third fiscal year following that in which the district was formed.

41859. He shall compute for each group of two or more school districts which have been continuously from a time prior to July 1, 1949, governed by boards of identical personnel during the preceding fiscal year and have maintained a single transportation system for all of such districts which provided for the transportation of pupils, an amount which shall be computed as follows:

He shall determine the total current expenses of the districts for such transportation during the preceding fiscal year.

(a) He shall, if such group comprises an elementary school district and a high school district, and each district provided for the transportation of pupils, or comprises an elementary school district,

a high school district, and each district provided for the transportation of pupils residing in the district, or comprises a high school district and each district provided for the transportation of pupils, then determine what rate of tax levied on each one hundred dollars (\$100) of the assessed valuation of that one of such districts providing for the transportation of pupils which has the largest assessed valuation as shown by the equalized assessment roll of the district for the preceding fiscal year, hereinafter referred to in this section as computed tax rate, would, if levied, produce such amount. If the computed rate of tax is more than three cents (\$.03) he shall allow the district (1) 50 percent of the amount which would be produced by not more than twelve cents (\$.12) of the computed tax rate less three cents (\$.03), (2) 75 percent of the amount which would be produced by not more than twenty-four cents (\$.24) of the computed tax rate less twelve cents (\$.12), (3) 80 percent of the amount which would be produced by not more than thirty-six cents (\$.36) of the computed tax rate less twenty-four cents (\$.24), and (4) 90 percent of the amount which would be produced by the computed tax rate less thirty-six cents (\$.36).

(b) He shall, if such group comprises an elementary school district, and a high school district, each of which provided for the transportation of pupils, then determine what rate of tax levied on each one hundred dollars (\$100) of the assessed valuation of that one of such districts providing for the transportation of pupils which had the largest assessed valuation as shown by the equalized assessment roll of the district for the preceding fiscal year, hereinafter referred to in this section as computed tax rate, would, if levied, produce such amount. If the computed rate of tax is more than four cents (\$.04) he shall allow to the district (1) 50 percent of the amount which would be produced by not more than sixteen cents (\$.16) of the computed tax rate less four (\$.04), (2) 75 percent of the amount which would be produced by not more than thirty-two cents (\$.32) of the computed tax rate less sixteen cents (\$.16), (3) 80 percent of the amount which would be produced by not more than forty-eight cents (\$.48) of the computed tax rate less thirty-two cents (\$.32), and (4) 90 percent of the amount which would be produced by the computed tax rate less forty-eight cents (\$.48).

He shall then allow to each district in the group the same ratio of the total amount computed for the group as the governing boards of the districts in the groups certify to him is the ratio the amount expended for such transportation in such district during the preceding fiscal year was of the total expenditures of all districts in the group for such transportation during the preceding fiscal year.

41860. In the case of a unified school district formed under Articles 1, 3, 4, 5, 6, 7, and 8 (commencing with Sections 4200, 4280, 4290, 4310, 4320, 4360, and 4400, respectively) of Chapter 2 of Part 3 of Division 1 of Title 1 and Articles 11 and 12 (commencing with Sections 35780 and 35800, respectively) of Chapter 3 of Part 21 of Division 3 of this title, the formation of which became effective for

all purposes on July 1, 1948, or thereafter, there shall be included in addition to the current expenses of transportation of the district the cost of such schoolbuses for the first five fiscal years in which it purchases schoolbuses as are determined by the Superintendent of Public Instruction to have been required because of changes in the location of schools or the reorganization of attendance centers within the district. This paragraph shall not be effective as to any unified school district after the end of the fifth fiscal year succeeding the formation of the district.

41861. Whenever a unified district is formed under Section 35503, if such formation occurred without any affirmative action taken by the electors of such district, and if it is necessary for the newly formed unified district, because of lack of adequate facilities, to contract with another school district under the provisions of Section 46304 for the education of a part of its day pupils, the Superintendent of Public Instruction shall allow to such district, in addition to the current expenses allowed under Section 41858 an amount equal to the cost of schoolbuses, as determined by him to have been required for the transportation of pupils to such district, purchased during any of the first three fiscal years following that in which the district was formed. In each of the nine consecutive fiscal years following the close of the third fiscal year in which the district was formed, the Superintendent of Public Instruction shall reduce the allowance to which the district is otherwise entitled under Section 41857 by an amount equal to one-twelfth of the actual cost of such buses purchased or the amount computed pursuant to Section 41857, whichever is the lesser.

41862. The Superintendent of Public Instruction in approving, under this article, current expenses of school districts for the transportation of pupils shall apply the same standards and basis for such approval to expenditures for such transportation provided by a school district in schoolbuses owned and operated by the school district and expenditures for such transportation provided by a contract with a common carrier, municipally owned transit system as defined in Section 39800, or a private party.

41863. (a) In addition to all other amounts allowed to a school district under this article, the Superintendent of Public Instruction shall allow to each school district for transporting blind, deaf, aphasic, orthopedic or other health-impaired, and other physically impaired pupils handicapped in mobility, mentally retarded pupils who come within the provisions of Section 56515, autistic pupils who come within the provisions of Section 56604, and multihandicapped pupils, to and from special day classes, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such pupils during the fiscal year resulting from the attendance of such pupils on the special day classes to and from which they are transported by the district.

In addition to all other amounts allowed to a school district under this article, the Superintendent of Public Instruction shall allow to each school district for transporting deaf, severely hard-of-hearing,

blind, deaf-blind, or other multihandicapped pupils who come within the provisions of Section 56160, to and from experimental programs approved by him, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such pupils during the fiscal year resulting from the attendance of such minor pupils in the experimental programs to and from which they are transported by the district.

(b) The Superintendent of Public Instruction shall allow to the county school service fund of each county for transporting blind, deaf, aphasic, orthopedic or other health-impaired, and other physically impaired pupils handicapped in mobility, mentally retarded pupils who come within the provisions of Section 56515 autistic pupils who come within the provisions of Section 56604, and multihandicapped pupils, to and from special day classes, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance during the fiscal year resulting from the attendance of such pupils on the special day classes to and from which they are transported by the county superintendent of schools.

The Superintendent of Public Instruction shall allow to the county school service fund of each county for transporting deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped pupils who come within the provisions of Section 56160, to and from experimental programs approved by him, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such pupils during the fiscal year resulting from the attendance of such pupils in the experimental programs to and from which they are transported by the county superintendent of schools.

(c) For each school district and county superintendent of schools furnishing transportation pursuant to subdivision (a) or subdivision (b) under circumstances requiring the operation of vehicles exclusively for such purpose, the Superintendent of Public Instruction shall allow under each such subdivision 75 percent of any expense in excess of three hundred eighty-nine dollars (\$389), but the additional allowance shall not exceed seventy-three dollars (\$73), per unit of average daily attendance of such pupils. Such amount shall be allowed as a part of the second principal apportionment upon special request made therefor to, and upon approval by, the Superintendent of Public Instruction.

(d) As used in this section, "physically impaired pupils handicapped in mobility" means those pupils who are deemed eligible for special class placement as defined by the State Board of Education.

(e) If the Superintendent of Public Instruction determines that the current expense of providing transportation under this section does not equal or exceed the allowance provided for such purpose, then the amount of the deficiency shall be withheld from state apportionments to the school district or the county superintendent of schools, as the case may be, in accordance with the procedure prescribed in Section 41341. Such amounts withheld shall then be

apportioned, on a pro rata basis against the expenses, to those districts which maintain and operate vehicles exclusively for the transportation of handicapped pupils. In no case shall any district receive an amount greater than its total current expense in providing such transportation.

41864. As used in Section 41863, "blind" includes partially seeing, "deaf" includes hard of hearing, and "special day classes" includes integrated programs of instruction for physically handicapped children including those handicapped in vision or hearing where the services of a qualified special teacher are provided.

An integrated program of instruction for physically handicapped children including those handicapped in vision or hearing shall be defined as any program in which such physically handicapped children receive their education in regular classrooms from regular classroom teachers, but receive, in addition, supplementary teaching services of a full-time special teacher, possessing a valid credential to teach exceptional children of the type enrolled in the program. Such supplementary teaching services may include instruction in the appropriate tool skills, the provision of special materials and use of appropriate special equipment, and counseling and guidance necessary to enable physically handicapped children and those handicapped in vision and hearing to benefit fully from their instruction.

As used in this section, physically handicapped children means those physically handicapped children who are deemed eligible for special class placement as defined by the State Board of Education.

41865. (a) In the event that the total amount which may be allowed under Section 41850 during any fiscal year is less than the total allowances computed under Sections 41856, 41857, 41858, 41859, 41860, and 41861, the amount allowed shall be successively recomputed by adding one-tenth of one cent (\$.001) to the lower tax rates provided for in Sections 41856, 41857, and 41859, respectively, until there is no deficit. Any balance remaining shall be allowed pursuant to Section 41972.

(b) In the event the total amount which may be allowed under Section 41850 during any fiscal year is more than the total allowances computed under Sections 41856, 41857, 41858, 41859, 41860, and 41861, the balance shall be allowed pursuant to Section 41972.

41866. In addition to all other amounts allowed to a school district under this article, the Superintendent of Public Instruction shall allow to each school district for transporting minor pupils whose vision or hearing is impaired to a degree making it practical to transport them to the California School for the Blind or to the California School for the Deaf or to some location in another public school district where specialized instruction may be afforded, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such pupils during the fiscal year resulting from the attendance of such pupils on the classes of specialized instruction to and from which they are transported as day-class pupils.

For each school district furnishing transportation under circumstances requiring the operation of vehicles exclusively for that purpose, the Superintendent of Public Instruction shall allow 75 percent of any expense in excess of three hundred eighty-nine dollars (\$389), but the additional allowance shall not exceed seventy-three dollars (\$73), per unit of average daily attendance of such pupils. Such amount shall be allowed as a part of the second principal apportionment upon special request made therefor to, and upon approval by, the Superintendent of Public Instruction.

Allowances under this section shall be subject to the approval of the Superintendent of Public Instruction of the practicality of transporting the pupils involved in any particular instance to the place where specialized instruction is afforded.

If the Superintendent of Public Instruction determines that the current expense of providing transportation under this section does not equal or exceed the allowance provided for such purpose, then the amount of the deficiency shall be withheld from state apportionments to the school district in accordance with the procedure prescribed in Section 41341. Such amounts withheld shall then be apportioned, on a pro rata basis against the expenses, to those districts which maintain and operate vehicles exclusively for the transportation of handicapped pupils. In no case shall any district receive an amount greater than its total current expense in providing such transportation.

**Article 11. Allowances for Mentally Retarded, Severely  
Mentally Retarded, Physically Handicapped and  
Educationally Handicapped Pupils**

41880. The Superintendent of Public Instruction shall allow, during the current fiscal year, to each school district and county superintendent of schools maintaining special day classes for the education of physically handicapped pupils (as defined by Sections 56700 and 56701), mentally retarded pupils (as defined by Sections 56500 and 56501), severely mentally retarded pupils (as defined by Section 56515), and educationally handicapped pupils (as defined by Section 56600), the amounts prescribed by this article for each of the respective types of class maintained for the fiscal year.

41881. As used in this article, "special day classes" includes integrated programs of instruction for physically handicapped children including those handicapped in vision or hearing where the services of a qualified special teacher are provided.

An integrated program of instruction for physically handicapped children including those handicapped in vision or hearing shall be defined as any program in which such physically handicapped children receive their education in regular classrooms from regular classroom teachers, but receive, in addition, supplementary teaching services of a full-time special teacher, possessing a valid credential to teach exceptional children of the type enrolled in the program. Such

supplementary teaching services may include instruction in the appropriate tool skills, the provision of special materials and use of appropriate special equipment, and counseling and guidance necessary to enable physically handicapped children and those handicapped in vision and hearing to benefit fully from their instruction.

As used in this section, physically handicapped children means those physically handicapped children who are deemed eligible for special class placement as defined by the State Board of Education.

41882. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of physically handicapped pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Elementary grades (K-8)	High school grades (9-12)
Physically handicapped		
Class size maximum of 3.....	\$5,400	—
Class size maximum of 5.....	3,100	\$2,965
Class size maximum of 6.....	2,520	—
Class size maximum of 8.....	1,800	1,670
Class size maximum of 10.....	1,370	1,240
Class size maximum of 12.....	1,085	950
Class size maximum of 16.....	725	590
Class size maximum of 20.....	—	375

(Amended by Stats. 1976 Ch 1011.)

[ORIGINAL SECTION]

41882. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of physically handicapped pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Elementary grades (K-8)	High school grades (9-12)	Community college grades (13-14)
Physically handicapped			
Class-size maximum of 3	\$5,400	—	—
Class-size maximum of 5	3,100	\$2,965	\$2,810
Class-size maximum of 6	2,520	—	—
Class-size maximum of 8	1,800	1,670	1,510
Class-size maximum of 10	1,370	1,240	1,080
Class-size maximum of 12	1,085	950	800
Class-size maximum of 16	725	590	435
Class-size maximum of 20	—	375	220

41884. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of mentally retarded pupils in special classes during current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Elementary grades (K-8)	High school grades (9-12)
Mentally retarded (as defined in Section 56501)		
Class size maximum of 15	\$570	\$440
Class size maximum of 18	420	285

(Amended by Stats 1976, Ch 1011.)

[ORIGINAL SECTION]

41884. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of mentally retarded pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category

Category	Elementary grades (K-8)	High school grades (9-12)	Community college grades (13-14)
Mentally retarded (as defined in Section 56501)			
Class-size maximum of 15 .....	\$570	\$440	\$280
Class-size maximum of 18 .....	420	285	130

41885. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of severely mentally retarded pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Elementary grades (K-8)	High school grades (9-12)
Mentally retarded (as defined in Section 56515)		
Class size maximum of 12 .....	\$920	\$785
(Amended by Stats. 1976, Ch. 1011 )		

[ORIGINAL SECTION]

41885. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of severely mentally retarded pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category.

Category	Elementary grades (K-8)	High school grades (9-12)	Community college grades (13-14)
Mentally retarded (as defined in Section 56515)			
Class-size maximum of 12 . . . . .	\$920	\$785	\$630

41886. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of educationally handicapped pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Elementary grades (K-8)	High school grades (9-12)
<b>Educationally handicapped</b>		
Class size maximum of 12 .....	\$1,000	\$870
<b>Autistic</b>		
Class size maximum of 6 .....	\$3,000	\$2,815

(Amended by Stats 1976, Ch 1011.)

[ORIGINAL SECTION]

41886. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of educationally handicapped pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Elementary grades (K-8)	High school grades (9-12)	Community college grades (13-14)
<b>Educationally handicapped</b>			
Class-size maximum of 12.. . . . .	\$1,000	\$870	\$710
<b>Autistic</b>			
Class-size maximum of 6 . . . . .	\$3,000	\$2,815	\$2,745

41887. The governing board of a school district during the current fiscal year, or a county superintendent of schools, may apply to the Superintendent of Public Instruction whenever sparsity of population or transportation distances make it impossible to maintain classes of the maximum size as prescribed by this code or by the State Board of Education. If the Superintendent of Public Instruction, upon review, finds that it is impossible to maintain classes of the maximum size as prescribed by this code or by the State Board of Education, he may add to the amounts allowed under Sections 41882 to 41886, inclusive, an amount sufficient to provide for the needed classes, but not more per special class than the applicable amounts computed in those sections.

It is the intent of the Legislature that the additional allowances authorized by this section be provided primarily for school districts with an average daily attendance of less than 2,000. Allowances for school districts with a current average daily attendance of 2,000 or more shall be provided, in any fiscal year, for no more than 2 percent of the school districts having a current average daily attendance of 2,000 or more.

41888. (1) In addition to the allowances provided under Sections 41882 to 41886, inclusive, the Superintendent of Public Instruction shall allow to school districts and county superintendents of schools for each unit of average daily attendance an amount as follows:

(a) For instruction of educationally handicapped pupils in learning disability groups, one thousand eight hundred eighty dollars (\$1,880).

(b) For instruction of educationally handicapped pupils in homes or in hospitals, one thousand three hundred dollars (\$1,300).

(c) For instruction of physically handicapped pupils in remedial physical education, seven hundred seventy-five dollars (\$775).

(d) For remedial instruction of physically handicapped pupils in other than physical education, two thousand dollars (\$2,000).

(e) For instruction of blind pupils when a reader has actually been provided to assist the pupil with his studies, or for individual instruction in mobility provided blind pupils under regulations prescribed by the State Board of Education, or when braille books are purchased, ink print materials are transcribed into braille, or sound recordings and other special supplies and equipment are purchased for blind pupils, or for individual supplemental instruction in vocational arts, business arts, or homemaking for blind pupils, nine hundred ten dollars (\$910).

Braille books purchased, braille materials transcribed from ink

print, sound recordings purchased or made, and special supplies and equipment purchased for blind pupils for which state or federal funds were allowed are property of the state and shall be available for use by blind pupils throughout the state as the State Board of Education shall provide.

(f) For other individual instruction of physically handicapped pupils, one thousand three hundred dollars (\$1,300).

(g) For the instruction of physically handicapped pupils in regular day classes, one thousand eighteen dollars (\$1,018).

(h) For the instruction of mentally retarded pupils in regular day classes, one thousand eighteen dollars (\$1,018).

(i) For the instruction of educationally handicapped pupils in regular day classes, one thousand eighteen dollars (\$1,018).

(j) In lieu of benefits provided under subdivision (d) of Section 41888, there shall be allowed for the individualized remedial instruction of speech handicapped pupils by specially trained noncredentialed teaching assistants under the direct guidance of a speech therapist, one thousand eighteen dollars (\$1,018).

(2) (a) The allowances provided under Sections 41882 to 41886, inclusive, may be increased proportionately on account of special day classes convened, or other instruction provided a pupil, for days in a school year which are in excess of the number of days in the school year on which the regular day schools of a district are convened.

(b) The Superintendent of Public Instruction shall compute for each applicant school district and county superintendent of schools in providing in such year a program of specialized consultation to teachers, counselors and supervisors for educationally handicapped pupils, an amount equal to the product of ten dollars (\$10) and the average daily attendance of pupils enrolled in special day classes, learning disability groups, and home and hospital instruction for educationally handicapped pupils.

41889. For each special class or program for which a state allowance is provided under this article or under Section 41863 or 41866, each school district and each county superintendent of schools maintaining such special classes or programs shall report annually to the Superintendent of Public Instruction, on forms he shall provide, all expenditures and income related to each special class or program.

If the Superintendent of Public Instruction determines that the current expense of operating a special class or program as defined in the California School Accounting Manual does not equal or exceed the sum of basic state aid, and state equalization aid provided in the regular foundation program per unit of average daily attendance and the allowance provided under this article, and any amount of local tax funds contributed to the foundation program for each pupil in average daily attendance in the special class or program maintained by a school district for each pupil in average daily attendance in special classes or programs maintained by the county superintendent of schools, then the amount of such deficiency shall be withheld from state apportionments to the school district or the county

superintendent of schools, as the case may be, in the succeeding fiscal year in accordance with the procedure prescribed in Section 41341.

Beginning with the 1971-72 fiscal year, expenditures for equipment that the Superintendent of Public Instruction determines are necessary for instruction in a special class or program for physically handicapped pupils shall be considered as current expense for purposes of this section. In any year the district's allowable expenditure for such equipment may not exceed 1 percent of the current expense of operating the district's physically handicapped program.

41891. The provisions of this article shall supersede any other provisions of this code in conflict therewith. Allowances under this article shall be provided pursuant to regulations of the State Board of Education and standards and requirements established by the State Board of Education.

41892. (a) The Superintendent of Public Instruction shall withhold from the total amount allocated in the current fiscal year by subdivisions (c), (e), and (g) of Section 41301 an amount equal to 0.0016 of the amount so allocated in the preceding fiscal year, for use by the Department of Education for research, program development, and evaluation in the education of the handicapped or gifted pupils.

(b) Seventy-five percent of the total amount withheld pursuant to subdivision (a) shall be used by the Department of Education to contract or make grants for research studies in the education of the handicapped or gifted pupils. Such contracts and grants shall be made with individuals, organizations, agencies, or institutions of higher education possessing personnel and the competencies necessary for successful completion of studies.

Contracts and grants awarded by the Department of Education shall be directed toward statewide problems and issues in the education of the handicapped or gifted pupil as determined by the State Board of Education.

(c) Twenty-five percent of the total amount withheld pursuant to subdivision (a) shall be used by the Department of Education for program development and evaluation. The department may contract with any individual agency or organization possessing personnel and the competencies necessary to fulfill the purposes of this subsection.

41893. The Superintendent of Public Instruction may employ such personnel as may be required for the effective administration of the program and shall use funds allocated in subdivision (c) of Section 41892 for this purpose, provided such funds do not exceed 10 percent of the total amount withheld pursuant to subdivision (a) of Section 41892.

41894. The State Board of Education shall establish rules and regulations for the development of research, program development, and evaluation studies which shall include: (a) application, (b) project review, (c) evaluation and analysis, and (d) dissemination of results.

41895. The State Board of Education shall annually review problems and issues, including, but not limited to, information submitted by governing boards of school districts and the county superintendents of schools, in the education of the handicapped and gifted pupils and shall adopt priorities for research, program development and evaluation studies.

41896. On the fifth day of the legislative session each year, the Department of Education shall report to the Joint Legislative Budget Committee relating to (a) research, program development, and evaluation studies conducted, (b) results of completed studies, (c) expenditure of funds, and (d) recommendations for program changes for the handicapped and gifted pupils resulting from studies.

41897. The Superintendent of Public Instruction shall allow to each district participating in a regional occupational center or to each county superintendent of schools operating a regional occupational center, for each unit of average daily attendance attributable to a person educated in a regional occupational center or program pursuant to Section 52315, the following amounts:

(a) One thousand nine hundred and fifty-five dollars (\$1,955) for each visually handicapped person.

(b) One thousand one hundred and twenty dollars (\$1,120) for each deaf person.

(c) One hundred seventy-nine dollars (\$179) for each orthopedically handicapped person.

The allowance prescribed by this section is in addition to other allowances or apportionments which may be received because of such attendance and can only be received if the specific service for which the allowance or apportionment is made is not otherwise provided by a community college within a reasonable commuting distance of the regional occupational center.

Each governing body maintaining a regional occupational center or program shall account for expenditures made on account of additional special instruction and support services pursuant to Section 52315. Expenditures shall be reported as an amount per pupil in average daily attendance in each of the categories specified in subdivisions (a), (b), and (c). If the Superintendent of Public Instruction determines that the expenditures, as reported, do not equal or exceed the allowances prescribed in subdivisions (a), (b), and (c), the amount of the deficiency shall be withheld from apportionments to the school district or the county superintendent of schools in the succeeding fiscal year in accordance with the procedure prescribed in Section 41341.

## Article 12. Allowances for Excess Cost of Driver Training

41900. The Superintendent of Public Instruction shall allow to each school district maintaining a high school or high schools, county superintendent of schools, the California Youth Authority and the

State Department of Education an amount equal to the actual cost, but not in excess of sixty dollars (\$60) per pupil instructed in the laboratory phase of driver education during the preceding fiscal year in accordance with Sections 41902 and 41905 and with regulations set forth by the State Board of Education to such districts, county superintendents of schools, the California Youth Authority and the State Department of Education for instructing pupils in the laboratory phase of driver education.

41901. The governing board of each school district maintaining a high school or high schools, each county superintendent of schools, the California Youth Authority, and the State Department of Education shall report annually to the county superintendent of schools and to the Superintendent of Public Instruction on forms provided by the Superintendent of Public Instruction, the cost of instructing such pupils, and such other information as may be required for the computation of the excess cost incurred in the instruction of the pupils in automobile driver training.

41902. Allowances by the Superintendent of Public Instruction shall be made only for driver training classes maintained in accordance with the rules and regulations as set forth by the State Board of Education.

Driver training shall be available without tuition to all eligible students commencing on July 1, 1969. The governing board of a district maintaining a high school or high schools, the county superintendent of schools, the California Youth Authority, and the State Department of Education may make driver training available during school hours, or at other times, or any combination thereof.

41903. The Superintendent of Public Instruction shall determine the amount of excess cost incurred by each school district, each county superintendent of schools, the California Youth Authority, and the State Department of Education during the preceding fiscal year for the establishment and maintenance of automobile driver training for pupils enrolled in the schools of the district, the county superintendent of schools, the California Youth Authority, and the State Department of Education in accordance with such regulations as he may prescribe.

"Excess cost," as used in this section, includes the total current expenditures incurred for instructing pupils in automobile driver training in special classes, including, but not limited to, automobile replacement, insurance, upkeep and maintenance of automobiles used in such training.

"Special classes," as used in this section, includes classes providing automobile driver training for pupils who may be excused, for the purpose of taking instruction in automobile driver training.

41904. The Superintendent of Public Instruction may promote and direct the establishment and maintenance of courses of instruction in automobile driver education and driver training in the public schools. For this purpose, he may employ such professional and other personnel as are necessary to give full effect to this article.

All necessary costs and expenses incurred for purposes of this section shall be provided for from such funds as may be appropriated by the Legislature from the Driver Training Penalty Assessment Fund.

41905. No allowance shall be made under this article for the instruction of pupils in automobile driver training unless the school district, the county superintendent of schools, the California Youth Authority, and the State Department of Education has complied with the rules and regulations of the State Board of Education governing the establishment, conduct, and scope of automobile driver education and driver training, except that such rules and regulations shall not relate in any way to teacher certification or licensing.

41906. In applying for state reimbursement for driver training expenses incurred in the school year 1968-69 and thereafter, school districts, county superintendents of schools, the California Youth Authority, and the State Department of Education shall certify to having met the requirements set forth in this article and, in addition, shall certify that all teachers used in the driver education or driver training programs are qualified instructors therein, except that such certification shall not relate in any way to teacher certification or licensing.

41907. A qualified instructor is one who has passed an approved driver's instruction examination and holds a designated subjects credential or who holds a valid prior credential authorizing instruction in automobile driver education and driver training.

The Department of Motor Vehicles shall notify the State Department of Education immediately upon suspension or revocation of a qualified instructor's driver's license or upon placing a qualified instructor on probation to the Department of Motor Vehicles as a negligent operator. The Department of Education and the Department of Motor Vehicles shall jointly determine the details regarding procedures for notification. No reimbursements shall be provided to a school district, a county superintendent of schools, the California Youth Authority, or the State Department of Education for students taught by an instructor while his driver's license is suspended or revoked, or while he is on probation to the Department of Motor Vehicles as a negligent operator, or while he is presumed pursuant to Section 12810 of the Vehicle Code to be a negligent operator, following notification by the State Department of Education to the school district, the county superintendent of schools, or the California Youth Authority, as the case may be, of such action.

41908. The governing board of any school district employing persons exclusively to teach driver training shall adopt and make public a salary schedule setting the daily or pay period rate or rates for such persons. Salary amounts and criteria for advancement contained in any salary schedule adopted pursuant to this section shall be established at the sole discretion of the governing board.

41909. The Superintendent of Public Instruction shall make an

additional allowance to each school district maintaining a high school or high schools, each county superintendent of schools, the California Youth Authority, and the Department of Education as reimbursement for the actual expense of replacing vehicles used exclusively in automobile driver training programs and of replacing simulators used in such programs, but the amount shall not exceed three-fourths of that part of the actual cost of instructing pupils in automobile driver training during the preceding fiscal year which was: (1) in excess of sixty dollars (\$60) per pupil instructed, and (2) expended by the district, the county superintendent of schools, California Youth Authority, or Department of Education replacing such vehicles and simulators. Reimbursement for vehicle shall be computed for only that portion of the total mileage used exclusively in driver training programs.

For purposes of computing reimbursement, whenever a school district, a county superintendent of schools, the California Youth Authority, or the Department of Education replaces a driver training vehicle or simulator purchased by the district, the county superintendent of schools, California Youth Authority or Department of Education with a vehicle or simulator that is a gift or loan, the purchase price of such new or acquired equipment shall be deemed to be the market value of the vehicle or simulator acquired through a gift or loan.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

41909. The Superintendent of Public Instruction shall make an additional allowance to each school district maintaining a high school or high schools, each county superintendent of schools, the California Youth Authority, and the Department of Education as reimbursement for the actual expense of replacing vehicles used exclusively in automobile driver training programs and of replacing simulators used in such programs, but the amount shall not exceed three-fourths of that part of the actual cost of instructing pupils in automobile driver training during the preceding fiscal year which was. (1) in excess of fifty dollars (\$50) per pupil instructed, and (2) expended by the district, the county superintendent of schools, California Youth Authority, or Department of Education replacing such vehicles and simulators. Reimbursement for vehicle shall be computed for only that portion of the total mileage used exclusively in driver training programs.

For purposes of computing reimbursement, whenever a school district, a county superintendent of schools, the California Youth Authority, or the Department of Education replaces a driver training vehicle or simulator purchased by the district, the county superintendent of schools, California Youth Authority or Department of Education with a vehicle or simulator that is a gift or loan, the purchase price of such new or acquired equipment shall be deemed to be the market value of the vehicle or simulator acquired through a gift or loan.

41910. The Department of Education may grant waivers of automobile driver training education provisions of the Education Code for the purpose of establishing experimental driver education programs directed toward improving cost effectiveness in the reduction of traffic crashes. Waivers under this section shall not increase program reimbursements authorized pursuant to Sections 41304 and 41306.

41911. The allowances made to the several school districts and

county superintendents of schools, and to the California Youth Authority and Department of Education under Sections 41900 and 41909 shall, when the Superintendent of Public Instruction determines that the funds credited to the Driver Training Penalty Assessment Fund during the preceding fiscal year will be insufficient to provide the full amounts otherwise allowable, be proportionately reduced.

41912. The expressed purpose of the Legislature is that highway accidents can and must be reduced through the education and training of drivers prior to licensing, and that this instruction properly belongs in the high school curriculum on a basis of having comparable standards of instruction, quality, teacher-pupil ratio and class scheduling in driver education as in other courses in the regular academic program. Only through a high quality program of driver instruction can the greatest potential in traffic accident prevention be realized. Further, the state has a responsibility to share in the reasonable costs of providing such courses.

41913. Notwithstanding any other provision of law, the governing board of any school district maintaining secondary schools, may, subject to Sections 41913 to 41919, inclusive, enter into contracts with approved private driver training schools to provide to any or all of the eligible enrolled students of the district, the automobile driver training as provided pursuant to Section 51852. No such contract shall be valid unless approved by the Superintendent of Public Instruction. The driver training provided under contract by an approved private driver training school shall be under the exclusive control and management of the governing board of the school district and shall comply with all rules and regulations of the State Board of Education relating to driver training offered by the public schools, except that a driver training instructor of the approved private driver training school shall not be required to possess any teaching credential or certification document of any kind except as required by the Driving School Department of the Department of Motor Vehicles. Nothing in this section shall prohibit the governing board from entering into contracts with more than one approved private driver training school and apportioning students among such schools.

41914. As used in this article, an "approved private driver training school" is one which:

(a) Has a valid license issued by the Department of Motor Vehicles pursuant to Chapter 1 (commencing with Section 11100) of Division 5 of the Vehicle Code.

(b) Maintains at all times limits of liability insurance established by the State Superintendent of Public Instruction equal to that required of the contracting school district.

(c) Provides, for such automobile driving instruction, dual-control automobiles approved by the Department of Motor Vehicles.

(d) Meets such other requirements as shall be established by the Superintendent of Public Instruction.

41915. Any contract entered into and approved in the manner provided pursuant to Section 41913 shall entitle the approved driver training school to payment by the school district of the sum of not more than the amount reimbursable to the school district as "excess cost" provided pursuant to Sections 41900 and 41903. In the event that a student who has commenced the driver training for which the district has contracted pursuant to Section 41913 and the student does not complete the driver training for any reason, the approved private driver training school shall be paid the amount in "excess cost," if any, received by the school district for such student.

41916. Upon presentment to the governing board by the approved private driver training school written verification of the name, school, dates, and times of each automobile driver training instruction lesson and such other information required by the Superintendent of Public Instruction, the approved private driver training school shall be paid the contract amount as determined pursuant to Section 41915.

41917. The governing board of any school district shall be entitled to reimbursement for driver training provided by approved private driver training schools pursuant to this article in the amount authorized pursuant to Section 41900, upon certifying to the Superintendent of Public Instruction the number of pupils for whom automobile driver training instruction lessons was provided pursuant to Sections 41913 to 41919, inclusive.

41918. Notwithstanding the provisions of Section 41907, a regular employee of a contracting approved private driver training school shall be a qualified instructor for automobile driver training provided that:

(a) He holds a valid driver instructor license issued by the Department of Motor Vehicles, and

(b) He has completed the driver instructor course required by the Department of Motor Vehicles.

41919. No approved private driver training school may enter into a contract pursuant to this article unless it has, at the time of entering into the contract, been operating in the State of California for at least 24 consecutive months.

A contracting approved private driver training school shall provide instruction pursuant to one of the plans authorized pursuant to Section 51852.

### Article 13. Instructional Television

41920. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools participating in a program for instructional television established pursuant to Section 51870 or 51871, fifty cents (\$0.50) multiplied by the number of pupils of the district present in the classroom and instructed by such instructional television programs during the preceding fiscal year. The amount of such allowance to a school district shall not

exceed one-half the total cost to the district of providing television broadcasts or closed-circuit television programs pursuant to Section 51870 or 51871. For the purpose of this section, no pupil shall be counted more than once per school year.

The allowances to school districts and county superintendents of schools under this section shall be made from such moneys as may be appropriated therefor by the Legislature.

It is the intention of the Legislature that the system of allowances prescribed by this section shall remain in effect only until such time as a new apportionment formula for funding instructional television is developed and moneys are appropriated therefor. The State Board of Education shall adopt appropriate procedures to insure an orderly transition to the new apportionment formula.

#### Article 14. Allowances for Project Connected Pupils

41930. As used in this article the term "project" means any major, localized, undertaking by or under the jurisdiction of the State Department of Water Resources, or by or under the jurisdiction of the State Department of Water Resources and the federal government, jointly, which has a duration, estimated by the Director of the Department of Water Resources, of more than three years.

41931. A project-connected pupil, as used in this article, means a child of a parent, guardian, or other person standing in loco parentis who has enrolled in the regular full-time day schools of the district subsequent to the commencement of a project, whose parent or guardian is employed by a contractor or subcontractor in connection with the project, or by the State of California whose work is in connection with the project, and which child is in addition to the number of children who would otherwise normally be expected to be in the district.

The identification of project-connected pupils shall be subject to the approval of the Superintendent of Public Instruction in accordance with regulations that he is herewith authorized to adopt. The records identifying and accounting for the attendance of project-connected children shall be prescribed by the Superintendent of Public Instruction.

41932. For the 1964-1965 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall allow to each eligible district, for each unit of average daily attendance in the regular full-time day schools of the district during the preceding fiscal year of project-connected pupils, as project-connected pupils are defined in Section 41931, an amount equal to the foundation program of the district, any supplemental amount computed under the Education Code, less basic state aid, and state equalization aid for the preceding fiscal year, divided by the second period average daily attendance of the district for the preceding fiscal year.

41933. The units of average daily attendance of project-connected pupils, as defined in Section 41931 for a fiscal year

shall be computed by dividing the total number of days of attendance of such pupils by the number of days school was actually taught in the regular day schools of the district during the fiscal year.

41934. A district shall be eligible for an allowance under Section 41932 if the average daily attendance of project-connected pupils is at least 10 in the district during the preceding fiscal year.

41935. For the purposes of this article, pupils in grades 7 and 8 attending a junior high school maintained by a high school district shall be deemed to be in attendance in the schools of the elementary district of residence.

41936. Amounts allowed pursuant to this article shall be apportioned by the Superintendent of Public Instruction at the same time and as a part of the special purpose apportionment made under the provisions of Section 41334, whichever is in effect.

#### Article 15. Allowances to County School Tuition Funds

41950. The Superintendent of Public Instruction shall allow to each county school tuition fund one hundred twenty-five dollars (\$125) for each unit of average daily attendance of pupils residing in the county and attending school in an adjoining state during the fiscal year. Such average daily attendance shall not be included in the computations provided for in Section 41761.

#### Article 16. Allowances for Severance Aid

41960. Whenever real property within a school district is acquired for state highway purposes, the Superintendent of Public Instruction shall allow to the school district an amount of severance aid as provided in this section, in addition to any other allowances provided by this chapter. For the five years following the acquisition of such property the Superintendent of Public Instruction shall allow to the school district severance aid based on the amount of tax revenues the school district would have received from such property if there had been no such acquisition, computed as follows: for the year following such acquisition, the district shall be allowed the amount of tax revenues, except revenues for bond interest and redemption, which would have been paid during the year of acquisition if the taxes assessed on the property acquired were then paid in full; for the second year the district shall be allowed 80 percent of such amount; for the third year the district shall be allowed 60 percent of such amount; for the fourth year the district shall be allowed 40 percent of such amount; and for the fifth year the district shall be allowed 20 percent of such amount.

41961. For school districts in which the land acquisition was completed on or subsequent to June 30, 1962, but prior to November 23, 1970, the Superintendent of Public Instruction shall perform the computation prescribed in Section 41960 and compute the total amount of severance aid for a five-year period commencing with the

date of completion of the acquisition. He shall determine an amount equal to 30 percent of the amount computed and certify the amount determined to the State Controller in the manner prescribed in Section 41964.

41962. School districts may apply for severance aid as provided in this article on forms provided by the Superintendent of Public Instruction, and in accordance with regulations which he is authorized to adopt.

41963. No allowance of severance aid shall be made as provided in Section 41960 or 41961 unless the total assessed value of taxable real property within the school district is reduced by one-half of one (0.5) percent or more during a fiscal year by reason of acquisitions giving rise to severance aid as provided in Section 41960 or 41961. In determining whether or not the value of such acquisitions is equal to one-half of one (0.5) percent or more of the value of taxable real property, all such acquisitions made during each fiscal year shall be considered as one sum.

41964. On or before May 25th in each fiscal year, the Superintendent of Public Instruction shall determine and certify to the State Controller the amount of severance aid computed and to be allowed to school districts under Section 41960 or 41961 for the fiscal year. On or before June 15th in each fiscal year, the State Controller shall order the transfer, from the Motor Vehicle Transportation Tax Account in the Transportation Tax Fund to the State School Fund, of the amount of severance aid computed and to be allowed to school districts for the fiscal year as so certified, and the amount so computed and certified is hereby appropriated for purposes of such transfer. The Department of Public Works may charge or allocate to the appropriate particular projects on account of which severance aid was computed, the amounts so transferred. In the case of severance aid determined pursuant to Section 41961, the allowance shall be apportioned to the school district in two equal annual installments.

#### Article 17. Recomputation of Allowances

41970. The total amount apportioned from Section A of the State School Fund shall not exceed the amount provided by law therefor. If the total amount provided for Section A of the State School Fund is greater than the total apportioned, the balance from any specified expenditure authorization in Sections 41300 and 41301 shall be used to decrease deficits in apportionments from Section A of the State School Fund in the order prescribed in Section 41972.

41971. If the total amount allowed for each subdivision in Sections 41300 and 41301 is less than the apportionments named in the subsections, the apportionments shall be reduced proportionately or as otherwise prescribed. Prior to the close of the fiscal year, such reductions shall be restored to the extent possible pursuant to Section 41970.

41972. Balances available from any apportionments from Section A of the State School Fund and funds provided by subdivision (c) of Section 14002 shall be used to the extent necessary as follows:

(a) First, to restore any reduction in apportionments for basic aid, and equalization aid, for elementary, high, and unified school districts and for all county superintendents of schools.

(b) Second, to restore any reduction in apportionments pursuant to Section 41865.

(c) Third, to restore any reduction in apportionments pursuant to Sections 41863, 41866, 41882, 41884, 41885, and paragraphs (c), (d), (e), (f), and (g) of subdivision (1) of Section 41888.

(d) Fourth, to restore any reduction in apportionments pursuant to Section 41886 and paragraphs (a) and (b) of subdivision (1) of, and paragraph (b) of subdivision (2) of Section 41888.

(e) Fifth, to restore any reduction in apportionments pursuant to Section 52205.

Any remaining balances otherwise transferable under subdivisions (b) and (c) of Section 14002 shall revert to the General Fund.

## CHAPTER 6. FINANCIAL STATEMENTS OF SCHOOL DISTRICTS

### Article 1. Statements

42100. On or before the 15th day of August of each year the governing board of each school district shall prepare and keep on file for public inspection a statement of all receipts and expenditures of the district for the preceding fiscal year and a statement of the estimated total expenses for the district for the current fiscal year.

42101. The statement shall be in the form prescribed by the Superintendent of Public Instruction.

42102. The budget of the governing board for the current fiscal year shall be a part of the statement.

42103. Except in districts where no district tax is levied and in elementary districts employing but one teacher, the publication budget for the ensuing school year to which it is intended to apply, showing program expenditures, cash balances, and all the appropriations from the state as required to be tabulated in Sections 42122 and 42123 for the ensuing and last preceding fiscal year, and the district tax requirement for the school year to which the publication budget is intended to apply and for the last preceding school year, including a summary of the district tax requirements for the ensuing fiscal year to be derived by levies on the secured roll as shown on the budget form prescribed for this purpose by the Superintendent of Public Instruction, shall be published by the county superintendent of schools at least once in a newspaper of general circulation published within the district, or if there is no such newspaper, then in any newspaper of general circulation in the district, prior to its adoption. The cost of the publication shall be a proper and legal charge against the school district or districts for

which the publication is made, and shall not exceed the rate fixed by the board of supervisors for official advertising. Publication shall be made during the last week in July of each year, and shall contain a notice that a public hearing will be held before the governing board of the school district, in a schoolhouse in the district, or in some other place conveniently accessible to the residents of the district, during the first week in August at which any taxpayer in the district may appear and object to the proposed budget or any item of the budget. The hearing may be concluded on such publication budget when there are no requests on file for further hearing. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held. In the case of a school district or districts in which the average daily attendance of all said districts combined is in excess of 200,000, governed by the same governing board, the public hearing during the first week in August need not be held if there has been at least one public meeting on the publication budget prior to the first week of August, at which public meeting any changes proposed to be made in the publication budget for the final budget shall have been presented.

42104. Any violation of this article or a failure to comply with its provisions by the county superintendent of schools or by the governing board of any school district is punishable under Section 1222 of the Government Code.

42105. The governing board of any school district may print and distribute in pamphlet form an annual financial statement of the receipts and expenditures of the school district, and may include in the pamphlet a general report concerning the conduct and condition of the schools of the district. Similar information of value to the public regarding the school system may be printed and distributed from time to time, or published not oftener than once a year, in a newspaper of general circulation published within the district.

## Article 2. Budget Requirements

42120. As used in this article, "budget" includes the preliminary budget, the tentative budget and the final budget of a school district.

42122. Each budget shall show a complete plan and itemized statement of all proposed expenditures of the school district and of all estimated revenues for the ensuing fiscal year, together with a comparison as to each item of revenue and expenditures, with the actual revenues and expenditures for the last completed fiscal year and the actual and estimated expenditures for the existing fiscal year. The county superintendent of schools shall from his own records supply to the school district any information that the school district may need to make the comparisons required by this section.

42123. Each budget shall be itemized to set forth the necessary revenues and expenditures, by program, in each fund to operate the public schools of the district as authorized by law and on forms prescribed by the Superintendent of Public Instruction.

42124. The budget may also contain an amount to be known as the general reserve in such sum as the governing board may deem sufficient, for the next succeeding fiscal year, to meet the cash requirements to which the district's credit may be legally extended for that portion of said next succeeding fiscal year until adequate proceeds of the taxes levied for, or apportionment of state funds made to, the district during such succeeding fiscal year are available to the district.

42125. The budget may also contain an amount to be known as the undistributed reserve. The funds in the undistributed reserve shall be available for appropriation by a two-thirds vote of the members of the governing board, to cover expenditures that have not been provided for or that may have been insufficiently provided for, or for unforeseen requirements as they may arise.

42126. Each budget shall be made in quintuplicate in the form and upon the blanks prescribed by the Superintendent of Public Instruction. It shall be the duty of the Superintendent of Public Instruction to prepare standard forms and blanks necessary to show the budgeting items and comparisons required by this article. Blanks shall be furnished to the school districts by the county superintendent of schools.

42127. (a) On or before the first day in July in each year, each school district shall file a tentative budget with the county superintendent of schools.

(b) On or before July 15, in each year, the county superintendent of schools:

(1) Shall examine and may make technical corrections to the tentative budget, and indicate changes he deems desirable or necessary to determine the tax requirement; and

(2) Shall make any recommendations he deems necessary to insure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board a written explanation of the reasons for such changes.

(c) On or before July 20 in each year, the governing board shall make such changes in the tentative budget as it deems necessary or desirable and shall return the budget to the county superintendent of schools. Such budget shall constitute the publication budget for the period to which it is intended to apply. A copy of this publication school budget shall be sent to the county auditor in such form.

(d) On or before the eighth day of August, or on or before the 10th day of August in the case of a school district in which there is an average daily attendance of more than 10,000, the governing board of each school district in which a public hearing is required in Section 42103 shall adopt a final budget and shall file such budget with the county superintendent of schools, the county auditor, the county board of supervisors, and the Superintendent of Public Instruction. In the case of districts which are not required to hold a public hearing, the publication budget as approved by the governing board

shall be filed with the county superintendent of schools, the county auditor, the county board of supervisors, and the Superintendent of Public Instruction immediately after its approval.

(e) On or before the 15th day of August, the county superintendent shall approve the adopted budget for each school district as officially adopted and submitted by its governing board, and shall file one copy of the adopted budget of each school district with the board of supervisors, one copy with the auditor of his county, and one copy with the Superintendent of Public Instruction, together with a statement showing the amount of school district taxes required by each school district of the county.

42128. If the governing board of any school district neglects or refuses to make a school district budget as prescribed by this article, the county superintendent of schools shall not make any apportionment of state or county school money for the particular school district for the current school year.

## CHAPTER 7. LOCAL TAXATION BY SCHOOL DISTRICTS

### Article 1. Changing Maximum Tax Rates

42200. The maximum rate of school district tax for any school year is hereby increased by such amount as will produce the amount of the proposed expenditures of the school district required or authorized pursuant to Sections 44813 and 44814, Sections 40040 to 40058, inclusive, and Sections 10900 to 10915, inclusive, of this code as shown by the budget of the district for such school year, as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from the revenue from the increase in the rate of tax provided by this section.

The increase provided by this section shall not exceed five cents (\$0.05) per each one hundred dollars (\$100) of the assessed value of property within the district, and said increase shall be in addition to any other school district tax authorized by law to be levied.

In a unified school district the increase provided by this section shall not exceed ten cents (\$0.10) per each one hundred dollars (\$100) of the assessed value of property within the district if the district maintains one or more elementary schools and high schools.

If at the end of any school year there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance shall be used exclusively in the following school year for the expenditures of the school district during that year required or authorized by Sections 10900 to 10915, inclusive, Sections 40040 to 40058, inclusive, and Sections 44813 and 44814.

42201. Notwithstanding the provisions of Section 42200, a district may accumulate from year to year any unencumbered balance derived from the tax levied under Section 42200, provided that the accumulated money is ultimately expended for a purpose authorized

by Sections 10900 to 10915, inclusive, Sections 40040 to 40058, inclusive, or Sections 44813 and 44814.

42202. Effective September 4, 1973, and thereafter, the revenue limit per unit of average daily attendance for any elementary, high school, and unified district, as computed pursuant to law for any school year affected, may be increased and, having been increased, may be decreased, by an amount equal to or less than the amount of such increase, by a majority vote of the qualified electors of the school district at an election which may be ordered by the governing board of the school district of its own motion and shall be ordered within 90 days after the filing with the governing board of a petition signed by not less than 10 percent of the registered voters of the district, requesting that an election be ordered, unless the petitioners request that the election be consolidated with the annual election for members of the governing board, or that the election be consolidated with the general election.

The governing board shall determine whether the increase or decrease shall remain in effect for a specified or unspecified period of time, unless the petition filed by the electors provides for a specified or unspecified period of time. If a specified period is provided for in the petition or determined upon by the governing board, such period shall be stated on the ballot.

Pursuant to the order of the governing board, the election shall be called, held, and conducted as nearly as is practicable in accordance with the provisions of Chapter 3 (commencing with Section 5300) of Part 4 of Division 1 of Title 1.

The specification of the election order shall contain the information provided in Section 5322 and shall be furnished by the governing board of the district for all revenue limit increase or decrease elections ordered by it.

The costs incurred by the county clerk or registrar of voters and the county superintendent of schools in connection with this section shall be paid out of the funds of the district.

Except as otherwise herein provided, the ballot used in the election shall contain substantially the words "Shall there be authorized an (increase, decrease) in the revenue limit per unit of average daily attendance in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_), such (increase, decrease) to be effective in the \_\_\_\_\_ School District for (the school year 19\_\_-\_\_ only; the school years 19\_\_-\_\_ through 19\_\_-\_\_; \_\_\_\_\_ school years commencing 19\_\_-\_\_), the revenues of which are to be used for \_\_\_\_\_?"

"This (increase, decrease) would constitute an (increase, decrease) for the school year 19\_\_-\_\_ from approximately \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) to approximately \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) per unit of average daily attendance.

"The proposed (increase, decrease) of the revenue limit of \$\_\_\_\_\_ per unit of average daily attendance will authorize an (increase, decrease) in the estimated maximum general purpose tax rate of the district in the first year \_\_-\_\_ from approximately \$\_\_\_\_\_

[the approximate maximum general purpose tax rate which would be applicable in 19\_\_-\_\_ in the event this proposition is not approved, although the maximum general purpose tax rate of the district for 19\_\_-\_\_ was approximately \$\_\_\_\_\_] to approximately \$\_\_\_\_\_ for each one hundred dollars (\$100) of assessed valuation of property." (The explanatory language set forth above in brackets may, at the option of the district governing board, be eliminated or appropriately modified.) Opposite such words, in separate lines, the words "Yes" and "No" shall be printed, with a voting square opposite each such word. If, at any prior election held in the district after July 11, 1973, the revenue limit of the district had been increased for a specified period of time, and if the election is called for the purpose of continuing in effect the previously authorized increase in the revenue limit per unit of average daily attendance of the district, the ballot shall contain substantially the words "Shall the existing revenue limit increase of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per unit of average daily attendance be continued in the \_\_\_\_\_ School District for the school years 19\_\_-\_\_ through 19\_\_-\_\_, the revenues of which are to be used for \_\_\_\_\_?" Opposite such words in separate lines, the words "Yes" and "No" shall be printed with a voting square opposite each such word. Each voter shall stamp a cross in the voting square after the answer he desires to give.

Whenever the revenue limit per unit of average daily attendance of a school district is increased for either a specified or unspecified period of time and during such period an election is called for the purpose of further increasing the revenue limit per unit of average daily attendance of the district, the ballot used in the election shall show only the authorized revenue limit increase per unit of average daily attendance of the district in effect at the time of the election and the proposed revenue limit increase per unit of average daily attendance.

If an election for a decrease in an increased revenue limit of a district is held in any year prior to or concurrently with the district election for governing board members, any decrease adopted at such election shall become effective on July 1 following the election. If an election for a decrease in a revenue limit of a district is held in any year after the date of the district election for governing board members, any decrease adopted at such election shall not become effective until July 1 of the next succeeding year.

42203. The repeal, by the act enacting this section, of Sections 42202 and 85112 shall not operate to invalidate the results of any election ordered, called or conducted prior to the effective date of this section, and the legal effectiveness of any ballot proposition used in any such election, which ballot proposition substantially complies with the wording authorized by such repealed sections, or with the purpose and intent of such repealed sections, is hereby ratified and confirmed to the full extent of the power of the Legislature to do so. Any school district election for an increase or decrease in the revenue limit of such district ordered by the governing board prior

to the effective date of this section, in which the ballot proposition substantially complies with the wording authorized by Section 42202, as added by the act enacting this section, or which substantially complies with the intent and purpose of these newly added sections, shall be as fully effective as they would be had this newly added Section 42202 become effective prior to the ordering of such elections.

42204. Any such increase or decrease in tax rates or revenue limits shall remain in effect only for the period specified on the ballot, if such period was specified by the governing board.

42205. Whenever a high school district and a community college district which are coterminous have, pursuant to provisions of Section 85112, increased the combined tax rate otherwise applicable to the districts, and thereafter, the districts cease to be coterminous, the maximum tax rate of the high school district shall be the previously authorized combined tax rate less thirty-five cents (\$.35) on each one hundred dollars (\$100) of assessed valuation.

42206. Notwithstanding any provision of law to the contrary, no election for the purpose of increasing or decreasing any maximum tax rate for any school district shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

42207. Any election called pursuant to Sections 42200 to 42204, inclusive, may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

42210. The maximum rate of school district tax for any fiscal year is hereby increased by such amount as will provide the amount of the proposed expenditures for programs for educating handicapped pupils under Sections 56600 to 56618, inclusive, which are in excess of state apportionments as shown by the budget of the district as finally adopted by the governing board of the district.

Such proposed expenditures may include the cost of equipment and facilities, the lease or lease-purchase of buildings, lease of land, alterations or additions to existing buildings, or other necessary capital outlay expenditures in connection with such programs.

If at the end of any fiscal year there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance shall be used exclusively in the following fiscal year for the expenditures of the school district during that year required or authorized by Sections 56600 to 56618, inclusive.

42211. (a) The maximum rate of any elementary or unified school district is, commencing with the fiscal year 1964-65, increased by an amount sufficient to produce the amount by which the cost during the current fiscal year, of tuition or of educating pupils in grades 7 and 8, exceeds the cost during the current fiscal year of educating pupils in grades kindergarten or 1 through 6 maintained

by the district, exclusive of all federal and state apportionments.

(b) The computations prescribed by subdivision (a) of this section shall be made on the basis of current estimates of cost and average daily attendance, pursuant to rules and regulations of the Superintendent of Public Instruction. The Superintendent of Public Instruction shall also, by rule and regulation, prescribe the accounting procedures and all other procedures to govern the fixing of district tax rates and the disposition of the additional tax revenues provided pursuant to this section.

Of the additional tax revenues provided pursuant to this section, there shall be expended by a school district during a fiscal year, no more than the actual additional cost during that fiscal year of educating pupils in grades 7 and 8 as computed for purposes of subdivision (a). If at the end of any fiscal year there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance shall be used exclusively in the following fiscal year for the payment of the obligations for which such tax revenues are afforded by this section and to offset such tax rate increase. If an elementary school district withdraws from a junior high school or a system of junior high schools pursuant to Sections 37085 to 37088, any such remaining unencumbered balance derived from the revenue of the increase in tax rate hereby provided may be transferred by resolution of the governing board of the elementary school district to the general fund. In the fiscal year following such transfer, the amount of such remaining unencumbered balance which is transferred to the general fund of the district shall be used to reduce the amount for which the maximum rate of school district tax may be increased pursuant to subdivision (a) of this section for the purposes of educating pupils in grades 7 and 8 in such elementary school district.

42212. (a) The maximum tax rate of a high school district which maintains a junior high school is, commencing with the fiscal year 1964-1965, increased by an amount sufficient to produce the amount by which the cost during the current fiscal year, of educating pupils in grades 7 and 8, exceeds the total of federal and state apportionments and the tuition payments received by the district during the current fiscal year for such pupils pursuant to Section 37062. The rate of tax for such purpose shall not be levied on the assessed valuation of any elementary district included in such high school district if the elementary district has 10 percent or less of the pupils in grades 7 and 8 who reside in the elementary district attending a junior high school of the high school district.

(b) The computations prescribed by subdivision (a) shall be made on the basis of current estimates of cost and average daily attendance, pursuant to rules and regulations of the Superintendent of Public Instruction. The Superintendent of Public Instruction shall also, by rule and regulation, prescribe the accounting procedures and all other procedures to govern the fixing of district tax rates and the disposition of the additional tax revenues provided pursuant to this section.

Of the additional tax revenues provided pursuant to this section, there shall be expended by a school district during a fiscal year, no more than the actual additional cost during that fiscal year of educating pupils in grades 7 and 8 as computed for purposes of subdivision (a). If at the end of any fiscal year there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance shall be used exclusively in the following fiscal year for the payment of the obligations for which such tax revenues are afforded by this section and to offset such tax rate increase.

42213. The maximum rate of school district tax is hereby increased for any school year for any school district which is obligated to pay to another school district tuition or other expenses of educating pupils in grades 7 and 8 in a junior high school. The increase in such maximum tax rate shall be in the amount necessary to produce that part of such tuition or expense obligation which represents the allocation, by the district maintaining the junior high school, of any part of its retirement or health and welfare benefit contributions under Sections 23900 and 23903, Sections 20532, 22551 and 22553 of the Government Code, and Article 1 (commencing with Section 53200) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, less any unencumbered balances remaining at the end of the preceding school year derived from the revenue from the increase in the rate of tax provided by this section.

If at the end of any school year there remains an unencumbered balance derived from the increase in tax rate hereby provided, such balance shall be used exclusively in the following school year for the payment of such obligations of the district.

42214. (a) This section shall only apply to those counties having a population in excess of 4,000,000 and to every school district within such a county for which the board of supervisors fixes the annual school district tax rate.

(b) Upon written request of the governing board of any school district submitted to the county assessor on or before the 20th day of February, the county assessor shall not later than the succeeding 15th day of May advise in writing the governing board of the school district the estimated total assessed valuation of taxable property in the district for the next succeeding fiscal year, together with the estimated total assessed valuation of all taxable property appearing on the secured roll, the unsecured roll, and solvent credits.

## Article 2. Property Tax Revenue Control

42230. Notwithstanding any other provisions of law, for the 1973-74 fiscal year, and fiscal years thereafter, the maximum tax rate for school districts other than community college districts shall be as provided in this article.

42231. Commencing on July 1, 1973, the maximum school district

tax rate of any school district maintaining kindergarten and any of grades 1 to 12, inclusive, shall be the rate computed pursuant to this article. In addition, each such district may levy a tax as authorized in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42202, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. Any other provision of law fixing the maximum school district tax rate for any such district or authorizing the levy and collection of taxes for any other purpose is hereby superseded and declared inoperative as to such districts.

**42232.** For purposes of Section 42233, for the 1973-74 fiscal year the maximum general purpose tax rate of a unified school district, which district was effective for all purposes on July 1, 1973, and the formation of which was approved by the voters on June 6, 1972, shall be a rate computed by adding: (1) the rate set out in the ballot proposition for the election which approved the formation of said unified district, (2) such additional rates, not exceeding one dollar and fifty cents (\$1.50) for each one hundred dollars (\$100) assessed valuation of taxable property in the district, as the district could have levied if those permissive override taxes which are made inoperative by Section 42231 were allowed in fiscal year 1973-74, and (3) an additional rate approved by the State Superintendent of Public Instruction which in his opinion would raise sufficient revenues to offset inflationary factors which have occurred since June 30, 1971.

Each of those districts for which this section provides a maximum general purpose tax rate shall have its revenue limit per unit of average daily attendance for the 1974-75 fiscal year determined from the actual revenue limit per unit of average daily attendance for the 1973-74 fiscal year. The actual revenue limit per unit of average daily attendance for the 1973-74 fiscal year is defined as the sum of: (1) all income from the general purpose tax rate levied in the 1973-74 fiscal year, (2) the actual state aid for the foundation program in 1973-74 fiscal year as determined from the second principal apportionment, (3) any equalization offset tax income received in the 1973-74 fiscal year, and (4) any income from the unsecured roll or prior year taxes received in the 1973-74 fiscal year that are related to the maximum general purpose tax rate, divided by the average daily attendance of the second principal apportionment for the 1973-74 fiscal year.

**42233.** For the purposes of this section, the assessed valuation used in computing revenue limits and the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

For the purposes of this section, the revenue limit computational

tax rate is defined as the district's fiscal year tax rate exclusive of tax rates provided in Section 4147, 49502, 56811 but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, 8329, 15742, 15250, 16090, 16196, 16204, 16214, 39229, 39230, 39308, 39311, 42200, 42402, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. In computing the sum of the tax rates pursuant to this section, Section 42212 shall be considered a rate upon the elementary district taxed and not on the high school district.

(a) For the 1973-74 fiscal year only, the county superintendent of schools shall compute for each school district in the county an amount equal to the sum of (1) the district's 1972-73 fiscal year revenue limit computational tax rate, multiplied by the actual assessed valuation on the secured roll of the district for the 1972-73 fiscal year, and the district's 1971-72 fiscal year revenue limit computational tax rate, multiplied by the assessed valuation on the unsecured roll of the district for the 1972-73 fiscal year, (2) the amount of areawide aid received by the district for the 1972-73 fiscal year, (3) 32½ percent of the residual retirement reserve transferred under Chapter 117 of the Statutes of 1972, (4) the total amount of basic state aid, equalization aid, supplemental support, and inflation cost adjustment which the districts received pursuant to the provisions of this code and the Budget Act of 1972 as computed by the Superintendent of Public Instruction, and (5) the amount of income from the equalization offset tax pursuant to Section 41203.

(b) The amount computed in subdivision (a) shall be divided by the foundation program average daily attendance in the second principal apportionment and shall be the 1972-73 base revenue per unit of average daily attendance.

(c) The base revenue per unit of average daily attendance for each district shall be divided into the following amounts per unit of average daily attendance: for elementary districts, nine hundred dollars (\$900); for high school districts, one thousand one hundred sixty-five dollars (\$1,165); for unified districts, nine hundred eighty dollars (\$980). If the result is greater than 1 it shall be deemed to be 1.

(d) The quotient determined pursuant to subdivision (c) shall be multiplied by seventy dollars (\$70) per unit of average daily attendance.

(e) The product determined pursuant to subdivision (d) shall be added to the base revenue per unit of average daily attendance determined pursuant to subdivision (b) and multiplied by the estimated foundation program unit of average daily attendance in the second principal apportionment of the districts for the 1973-74 fiscal year.

(f) The amount computed pursuant to subdivision (e) shall be

compared with the total amount computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840. The larger of the two amounts shall be the revenue limit of the district for the 1973-74 fiscal year but in no case shall exceed 116 percent of the 1972-73 base revenue per unit of average daily attendance multiplied by the 1973-74 fiscal year estimated foundation program average daily attendance or the 1972-73 base revenue per unit of average daily attendance plus seventy dollars (\$70) multiplied by the 1973-74 fiscal year estimated foundation program average daily attendance, whichever is higher. This revenue limit is exclusive of federal funds and state funds except those specified in subdivision (a).

In lieu of the revenue limit determined pursuant to the preceding paragraphs of subdivision (f) a district may request the county superintendent of schools to determine its revenue limit for the 1973-74 fiscal year using either, but not both, of the two following methods:

(1) Determine the base revenue per average daily attendance for the 1972-73 fiscal year by including the unused portion of a voted override in the revenue limit computational tax rate, use sixty-five dollars (\$65) instead of seventy dollars (\$70) as the computational amount in subdivision (d), use 115 percent instead of 116 percent as the computational limit in subdivision (f). For purposes of this paragraph, the unused portion of a voted override shall be determined as the difference between the total of the maximum tax rate approved by an election pursuant to Section 85112 added to the actual tax rates levied, in the same fiscal year during which the election was held, for all other purposes except pursuant to Sections 4147, 49502 but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, 15742, 15250, 16090, 16196, 16204, 16214, 39229, 39230, 39308, 39311, 42200, and 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and the actual tax levied for the 1972-73 fiscal year, including the areawide tax rate levied but exclusive of the tax rates levied pursuant to Sections 4147, 49502 but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, 15742, 15250, 16090, 16196, 16204, 16214, 39229, 39230, 39308, 39311, 42200, and 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code.

(2) Determine the base revenue per average daily attendance for the 1972-73 fiscal year by including an amount equal to the

unrestricted balance used to balance income to expenditures in the 1972-73 fiscal year with such amount not to exceed 3 percent of the total expenditures plus tuition excluding debt service and transfers in the General Fund for the 1972-73 fiscal year, use sixty-five dollars (\$65) instead of seventy dollars (\$70) as the computational amount in subdivision (d), use 115 percent instead of 116 percent as the computational limit in subdivision (f). For purposes of this paragraph, the unrestricted balance shall be determined as the difference when the ending balance, less restricted amounts plus transfers of unrestricted amounts to other funds which remain as ending balances in other funds, is subtracted from the beginning balance, less restricted amounts in the 1972-73 General Fund.

Notwithstanding subdivision (f), if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the foundation program, it shall be allowed to increase the revenue limit by an amount equal to the difference between the Public Law 81-874 income per unit of foundation program average daily attendance of the 1972-73 fiscal year and the estimated Public Law 81-874 income per unit of foundation program average daily attendance of the 1973-74 fiscal year, if any, multiplied by the estimated foundation program average daily attendance of the 1973-74 fiscal year. Such increased revenue limit shall not exceed the foundation program of the 1973-74 fiscal year.

(g) From the revenue limit ascertained from the comparison made pursuant to subdivision (f), there shall be subtracted the total amount of basic state aid and state equalization aid to be received by the district during the 1973-74 fiscal year, as adjusted by repayment of any advances authorized by Section 41331, the amount of areawide aid to be received for the 1973-74 fiscal year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(h) The amount determined pursuant to subdivision (g) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System as required by Section 23400. Such adjustment, together with any rate levied in the 1972-73 fiscal year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401.

(i) The amount computed pursuant to subdivision (h) shall be the local revenue limit of the district for the 1973-74 fiscal year. From the local revenue limit, there shall be subtracted 32½ percent of the residual retirement reserve transferred under Chapter 117 of the Statutes of 1972.

(j) From the amount computed in subdivision (i), there shall be subtracted, (1) the amount of money collected or to be collected as taxes on property on the unsecured roll of the 1973-74 fiscal year, excluding the amounts collected through the levy of taxes provided

in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502 or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code and (2) the income from prior year taxes.

(k) The amount determined pursuant to subdivision (j) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars (\$100) of such assessed valuation and shall be the maximum general purpose rate which may be levied in the district during the 1973-74 fiscal year, exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (f) notwithstanding, in no case for districts receiving state equalization aid, shall the tax rate be reduced below one dollar (\$1) on the elementary level or eighty cents (\$.80) on the high school level or one dollar and eighty cents (\$1.80) for a unified school district, except that when the district has levied upon it an areawide tax, such areawide tax rate levied shall be considered first as part of the minimum tax rate limit.

42234. Any voted increase in the maximum tax rate, to be effective commencing with the 1973-74 fiscal year, which does not have a termination date shall be added to the 1972-73 fiscal year and 1971-72 fiscal year tax rates used to determine the 1972-73 base revenue per unit of average daily attendance.

Any voted increase in the maximum tax rate, to be effective commencing with the 1973-74 fiscal year, which does have a termination date shall be multiplied by the total estimated assessed valuation for the 1973-74 fiscal year, and the result divided by the estimated foundation program average daily attendance of the second principal apportionment for the 1973-74 fiscal year. This override tax revenue per unit of average daily attendance shall be added to the revenue per unit of average daily attendance for the 1973-74 fiscal year prior to the computation of the revenue limit of the district for the 1973-74 fiscal year pursuant to subdivision (f) of Section 42233. For the computation of the revenue limit of the district for the year immediately following the last year of authorization of the voted override, the amount of this increase as it actually affected the revenue limit shall not be included.

Notwithstanding the provisions of this or any other section of the Education Code, in those school districts having (a) a modified assessed valuation in 1972-73 between eighty-two million dollars

(\$82,000,000) and eighty-three million dollars (\$83,000,000), (b) a second period elementary average daily attendance in 1972-73 between 6,500 and 7,100, and (c) a second period high school average daily attendance in 1972-73 between 2,500 and 3,000, and whose electors did approve a tax override with a termination date at an election held on June 4, 1973, such override to be effective for the 1973-74 fiscal year, the override tax revenue per unit of average daily attendance shall be added to the revenue per unit of average daily attendance for the 1973-74 fiscal year after the computation of the revenue limit of the district for the 1973-74 fiscal year pursuant to subdivision (f) of Section 42233, and this same method shall be used each year for which the override has been authorized by the electors of the district. However, the revenues derived pursuant to the computation prescribed by this paragraph shall not exceed those which would have been derived had the district levied the entire amount of the authorized tax override during the 1973-74 fiscal year.

42235. For any school district in which a voted override tax expired at the end of the 1973-74 fiscal year and which expended, appropriated, or obligated by contract, general purpose tax rate income during the 1972-73 fiscal year for the costs of new buildings or site acquisition, the amount that was expended, appropriated, or obligated by contract during the 1972-73 fiscal year for the costs of new buildings or site acquisition shall be subtracted from the base revenue limit used to determine the revenue limit for the 1974-75 fiscal year.

42236. Notwithstanding Section 42234, any voted increase in the maximum tax rate, to be effective commencing with the 1973-74 fiscal year, which does have a termination date and whose sole purpose was the providing of construction funds shall not be subject to Section 42234, but shall, for each of the applicable fiscal years, be added to the maximum general purpose tax rate otherwise required to be levied.

42237. Any voted increase in the maximum revenue limit to be effective commencing with the 1974-75 fiscal year which has a termination date of June 30, 1979, and whose sole purpose was the providing of construction funds shall be added to the revenue limit in an amount necessary to pay such construction obligations for the applicable fiscal year.

This section shall remain in effect until July 1, 1979, and as of that date is repealed.

42238. For the 1974-75 fiscal year and each fiscal year thereafter, (a) the maximum general purpose tax rate for each elementary, high, and unified school district in the county shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined by the Superintendent of Public Instruction pursuant to this subdivision. For elementary school districts, it shall be the foundation program for districts which have an average daily attendance of 901 or more. For high school districts it shall be the foundation program for districts with an average daily attendance of 301 or more. For unified districts, it shall be the sum of (1) the foundation program of elementary districts which have an average daily attendance of 901 or more multiplied by the elementary foundation program units of average daily attendance of unified districts in the second principal apportionment, plus (2) the foundation program for high school districts with an average daily attendance of 301 or more multiplied by the high school foundation program units of average daily attendance of unified districts in the second principal apportionment divided by the sum of the elementary and high school units of average daily attendance of unified districts in the second principal apportionment.

(d) The inflation adjustment shall be based on the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district and the sum multiplied by the estimated foundation program average daily attendance of the budget year. The product shall be the revenue limit of the district for the budget year.

(g) Any district which has a revenue limit computed pursuant to subdivision (f) which is equal to or less than the foundation program computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840 as adjusted pursuant to subdivision (e) of Section 14002 may increase its revenue limit computed pursuant to subdivision (f) to the lesser of the foundation program level of the district or the prior year revenue limit increased by fifteen percent (15%).

For the 1974-75 and 1975-76 fiscal years only, notwithstanding subdivision (g) if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the foundation program, it shall be allowed to increase the revenue limit by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily

attendance of the prior year and the estimated Public Law 81-874 income per unit of foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, areawide aid to be received for the budget year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents (\$.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and (2) the income from the prior year's taxes.

(k) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 6 of the Health and Safety Code.

The amount determined pursuant to subdivision (j) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 42203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars (\$100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district during the 1973-74 fiscal year, exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no

greater than five cents (\$0.05) per one hundred dollars (\$100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (g) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below one dollar (\$1) on the elementary level or eighty cents (\$0.80) on the high school level or one dollar and eighty cents (\$1.80) for a unified school district, except that when the district has levied upon it an areawide tax, such areawide tax rate levied shall be considered first as part of the minimum tax rate limit.

42239. A district may add in Sections 42233 and 42238 for purposes of increasing the district's revenue limit for the budget year a portion of its loss in average daily attendance when it is anticipated that the estimated second principal apportionment units of average daily attendance, excluding defined adults and summer school average daily attendance, will be less than those of the preceding year. The number of units of average daily attendance to be added is determined as follows:

(a) When the reduction in average daily attendance is less than 1 percent of the preceding year average daily attendance no adjustment is allowed.

(b) When the reduction in average daily attendance is greater than 1 percent of the preceding year average daily attendance, divide the difference in average daily attendance by 1.33 and add the quotient to the estimated average daily attendance of the budget year.

The amount calculated in subdivision (b) shall be considered an addition to the estimated average daily attendance for purposes of increasing the revenue limit, but shall not be used to compute state apportionments.

This amount of adjustment in estimated units of average daily attendance shall be allowed without requiring a reduction in the revenue limit in the subsequent year which otherwise would be required pursuant to Section 42245, except that to the extent that actual data differs from the estimated unit of average daily attendance used in this section, Section 42245 shall be applicable.

42240. Commencing with the 1974-75 fiscal year, a school district shall reduce its revenue limit as authorized in Section 42238 by the estimated amount of open-space subvention to be received pursuant to Sections 16148 to 16153, inclusive, of the Government Code. The Superintendent of Public Instruction shall prescribe the method of estimating the open-space subvention to be received. This section shall be subject to the provisions of Section 42245.

42241. (a) The revenue limit of a school district is increased or decreased by the amount computed pursuant to this section.

(b) The county superintendent of schools shall ascertain the amount of district contributions which was paid from local taxes pursuant to Section 56031 in the 1972-73 fiscal year.

(c) He shall ascertain the amount of district contributions which is to be paid from local taxes pursuant to Section 56031 in the then

current fiscal year.

(d) If the amount determined pursuant to subdivision (c) is greater than that determined pursuant to subdivision (b), the revenue limit for the following fiscal year shall be increased by an amount equal to the difference.

(e) If the amount determined pursuant to subdivision (c) is less than that determined pursuant to subdivision (b), the revenue limit for the following fiscal year shall be decreased by an amount equal to the difference.

(f) If the amount determined in both subdivisions (b) and (c) is the same, there is no change in the revenue limit computed pursuant to this section.

42241.5. The revenue limit per unit of average daily attendance of a unified school district the boundaries of which are coterminous with those of a city and county shall be increased, or decreased, as the case may be, by the amount necessary to reflect or accommodate any change in the property tax revenues allocable to the district for public school purposes or any change in expenditures required of the district for public school purposes resulting from an election affecting such revenues or expenditures conducted pursuant to the charter of the city and county. Such revised revenue limit shall be in effect for the entire 1975-76 fiscal year.

42242. Each school district shall increase its 1974-75 base revenue limit as authorized in Section 42238 by the amount of open-space subvention it received for the 1972-73 fiscal year pursuant to Sections 16148 to 16153, inclusive, of the Government Code.

42243. Notwithstanding Section 42238, the revenue limit determined pursuant to Section 42238 shall be decreased to offset amounts required to be paid from the development center for the handicapped pupils fund pursuant to Section 56815 and the child development fund pursuant to Section 8328 for contributions authorized or required to be paid by the district on account of services of employees of a development center for the handicapped and services of employees providing child development services.

42243.5. (a) The revenue limit of a school district is increased or decreased by the amount computed pursuant to this section.

(b) The county superintendent of schools shall ascertain the amount of district contributions which was paid from local taxes pursuant to Sections 59021, 59121, and 59221 in the 1972-73 fiscal year.

(c) He shall ascertain the amount of district contributions which is to be paid from local taxes pursuant to Sections 59021, 59121, and 59221 in the then current fiscal year.

(d) If the amount determined pursuant to subdivision (c) is greater than that determined pursuant to subdivision (b), the revenue limit for the following fiscal year shall be increased by an amount equal to the difference.

(e) If the amount determined pursuant to subdivision (c) is less than that determined pursuant to subdivision (b), the revenue limit for the following fiscal year shall be decreased by an amount equal

to the difference.

(f) If the amount determined in both subdivisions (b) and (c) is the same, there is no change in the revenue limit computed pursuant to this section.

42244. Commencing September 4, 1973, the revenue limit prescribed by Section 42238 may be exceeded upon approval of a majority of the electors of the district voting on a proposition to that effect pursuant to Section 42202. Such approval may be granted for any period of time, and shall be added to the budget year revenue limit per foundation program unit of average daily attendance of the district as determined in subdivision (g) of Section 42238 in computing the maximum general purpose tax rate for each year in which the voted revenue limit increase is effective.

For the fiscal year following the last year in which the voted revenue limit increase is authorized, the amount of the voted revenue limit increase as it actually affected the revenue limit shall be subtracted from the revenue limit per foundation program unit of average daily attendance of the district as determined in subdivision (g) of Section 42238. This section shall be subject to Section 42245.

Notwithstanding anything to the contrary in Section 42202, the revenue limit shall be that prescribed by state law plus the amount of increase approved by the electors, and need not be the revenue limit set forth in the ballot proposition prescribed by that section prior to July 1, 1974.

42245. Whenever the computation required by Section 42233 or 42238 results, because of estimating or other errors, in a total revenue limit in an amount more or less than actual data would have produced, the revenue limit for the succeeding fiscal year shall be reduced by an amount equal to the amount of the error if the total produced was more, and may be increased by an amount up to the amount of the error if the total produced was less.

Whenever the collection and distribution of local taxes from the secured roll results in an amount more or less than the taxes required as computed by Section 42233 or 42238, the local tax requirement for the succeeding fiscal year shall be reduced by an amount equal to the amount of the difference if the total received was more, and may be increased by an amount up to the amount of the difference if the total received was less.

42246. The unexpended proceeds of any permissive tax rate, the authorization for the levy and collection of which has been made inoperative by this article, shall be transferred to the general fund of the district on July 1, 1973. The consolidation of all tax rates previously permitted and now included to the extent needed within the total general fund rate does not preclude districts from expending funds for the purposes normally supported by such permissive restricted overrides in prior years.

42247. It is the intent of the Legislature that an interim study be conducted on wealth equalizing among school districts, including but not limited to such means of wealth equalizing as variable foundation programs, power or wealth equalizing, and wealth pooling.

## CHAPTER 8. AREAWIDE TAX, ELEMENTARY SCHOOLS AND HIGH SCHOOLS

### Article 1. Levy and Collection of Taxes

42400. For purposes of this chapter:

(a) Each elementary school district shall be deemed to comprise the kindergartens and grades 1 to 8, inclusive, maintained by the district, and the seventh and eighth grades of the district not maintained by the district because of the attendance upon a junior high school of pupils who would otherwise attend upon seventh and eighth grades maintained by the district.

(b) Each high school district shall be deemed to comprise all of grades 9 to 12, inclusive, maintained within the high school district whether maintained by a high school district or by a community college district.

(c) Each unified school district shall be deemed to be an elementary school district comprising the kindergartens and grades 1 to 8, inclusive, maintained by the district and the seventh and eighth grades of the district not maintained by the district in elementary schools because of the attendance upon a junior high school of pupils who would otherwise attend the seventh and eighth grades maintained in elementary schools by the district, and a high school district comprising all of grades 9 to 12, inclusive.

(d) In determining to which particular districts apportionments shall be made, the rules prescribed by Sections 41606, 41607, and 41608 for purposes of apportionments from the State School Fund shall be utilized.

42401. The provisions of this chapter shall not be applicable to the territory of any school district included in a unification proposal, pursuant to the provisions of Chapter 1246 of the Statutes of 1967, which was rejected by the electorate, and which has been restored to existence as a separate elementary school district or high school district, as the case may be, pursuant to the provisions of Chapter 1246 of the Statutes of 1967.

42402. The board of supervisors of each county shall annually, commencing with the fiscal year as specified in Section 41762, at the time and in the manner of levying other county taxes, levy and cause to be collected, as provided in this chapter, additional taxes within the territory included in any school district territory for which a foundation program is computed under Section 41750.

2403. The additional taxes shall be levied and collected throughout the territory for support of the elementary school

districts included therein, if Section 41750 requires the computation of an areawide foundation program for such districts. The additional taxes shall be levied and collected throughout the territory for support of the high school districts included therein if Section 41750 requires the computation of an areawide foundation program for such districts. The taxes to be annually levied and collected shall be as follows:

(a) For elementary school support, at a rate sufficient to provide the amount of elementary school areawide aid for the territory under Section 41762.

(b) For high school support, at a rate sufficient to provide the amount of areawide high school aid computed for the territory under Section 41762.

42404. The moneys received from such taxes shall be deposited in the county treasury to the credit of the elementary school fund or the high school fund, or both, in the amounts collected for and properly allocable to elementary school support and high school support, respectively. The establishment of the elementary school fund and the high school fund in the county treasury is hereby authorized.

42405. Of the moneys received from such taxes, there shall be segregated, by the county treasurer, the portion thereof derived from the territory within any elementary school district, or high school district, which is situated only partially within the county and which is not placed by law under the jurisdiction of the county superintendent of schools. The moneys so segregated shall be transferred to the county treasury of the county whose county superintendent of schools has jurisdiction of the district, to be deposited to the credit of the elementary school fund or high school fund, and such county treasury shall thereafter be the legal depository of the funds.

42406. The distribution of all tax moneys collected upon property of the unsecured roll after the most recent lien date of taxes, for elementary school and high school purposes for a fiscal year as specified in Section 41762, and each fiscal year thereafter, shall be made and an amount be credited to, and allocated from, the elementary school fund or high school fund equal to the amount that would have been deposited to the fund and allocated to each school district had the rates under Section 42402 been applied to the unsecured roll.

## Article 2. Apportionment

42420. The moneys deposited to the credit of the elementary school fund and the high school fund in the county treasury pursuant to Article 1 (commencing with Section 42400) of this chapter, shall be apportioned by the county treasurer to the elementary school districts and the high school districts for which an areawide foundation program was computed pursuant to Section 41750.

Apportionments shall be made upon order of the county auditor issued from time to time and as soon as practicable after deposit of the moneys to the credit of the funds.

The elementary school fund shall be apportioned to the elementary school districts and the high school fund shall be apportioned to the high school districts in the amounts computed by the county auditor.

42421. The county auditor shall compute the amounts of the tax moneys to be apportioned from the elementary school fund to each elementary school district by dividing the amount of the annual tax moneys received and credited to the elementary school fund, by the areawide elementary school foundation program computed for the districts involved, and by multiplying the quotient so derived by the foundation program of the district.

The county auditor shall compute the amounts of the tax moneys to be apportioned from the high school fund to each high school district by dividing the amount of the annual tax moneys received and credited to the high school fund, by the areawide high school foundation program computed for the districts involved, and by multiplying the quotient so derived by the foundation program of the district.

## CHAPTER 9. SCHOOL DISTRICT FUNDS—EXPENDITURES AND APPROPRIATIONS

### Article 1. Control of Expenditures

42600. The total amount budgeted as the proposed expenditure of the school district for each major classification of school district expenditures listed in the school district budget forms prescribed by the Superintendent of Public Instruction shall be the maximum amount which may be expended for that classification of expenditures for the school year. Transfers may be made from the undistributed reserve to any expenditure classification or between expenditure classifications at any time by written resolution of the board of education of any school district governed by a board of education, when filed with the county superintendent of schools and the county auditor, or by written resolution of the board of trustees of any school district not governed by a board of education, when approved by the county superintendent of schools and filed with the county auditor. A resolution providing for the transfer from the undistributed reserve to any expenditure classification must be approved by a two-thirds vote of the members of the governing board; a resolution providing for the transfer between expenditure classifications must be approved by a majority of the members of the governing board. Nothing in this section shall be construed as affecting the provisions of Sections 42204 and 85112.

42601. At the close of any school year the county superintendent of schools may, with the consent of the governing board of a school

district previously given, make such transfers between the undistributed reserve and any expenditure classification or classifications or balance any expenditure classifications of the budget of the district for such school year as are necessary to permit the payment of obligations of the district incurred during such school year.

42602. Notwithstanding the provisions of Sections 42600 and 42610 or any provision of this code to the contrary, the governing board of any school district may, by a majority vote of its membership, and with the approval of the county superintendent of schools, budget and use any unbudgeted income provided during the fiscal year from any source other than local property taxes or the State School Fund, provided that increases in apportionments from the State School Fund to be received during the fiscal year on account of the average daily attendance of pupils in a special program financed by categorical aid from the federal or other governmental source may be budgeted and used under the provisions of this section.

42603. The governing board of any school district may direct that moneys held in any special or restricted fund or account may be temporarily transferred from one or more of these accounts or funds to the general fund of the district to be used for the payment of obligations of the general fund of the district. Such a transfer can be made not more than twice within a fiscal year from the same fund or account and only when the district will receive income sufficient to repay the amount transferred. The amount transferred shall be repaid to the special restricted fund or account either in the same or the following fiscal year, but in any case not more than 120 calendar days after the transfer. No more than 75 percent of the maximum of moneys held in any special or restricted fund or account during a current fiscal year may be transferred pursuant to the provisions of this section during that fiscal year.

## Article 2. Appropriation of Income Budget Excess

42610. All income accruing to the school district in excess of the amounts required to finance the total proposed expenditures, including transfers to other school districts and funds, as shown in the budget of the school district shall be added to the general reserve of the school district, and shall not be available for appropriation by the school district for the current fiscal year except by the following procedure. The governing board of the school district shall, by formal action of the board, pass a resolution setting forth the need according to major classification of school district expenditures to be met from any portion of the general reserve derived from assured income in excess of the total amount anticipated in the budget. The resolution shall be submitted to the county superintendent of schools. If the resolution is approved by the county superintendent of schools it shall, if it involves a sum in excess of one thousand dollars (\$1,000),

be published in the same manner as the budget of the school district concerned is published. Upon the approval of the resolution and, where its publication is required, following its publication, the amount named in the resolution shall be appropriated to the major classification or classifications from the general reserve as set forth in the resolution.

The county superintendent of schools shall approve any resolution for the appropriation of income provided from state or federal sources for emergency needs of the school district to the extent that such income was not anticipated in the budget of the school district.

Nothing in this section shall be construed to authorize the appropriation for current year purposes of income which would deplete the general reserve for the next succeeding fiscal year as provided in the budget of the school district.

On the first day of July of each year, the general reserve together with unexpended balances of appropriations and income in excess of anticipated income for the preceding fiscal year shall be placed to the credit of the school district, and the school district shall include all money so credited in the balance shown in the budget for the ensuing fiscal year.

### Article 3. Temporary Transfer—County to Districts, to Finance Excess Expenditure

42620. Whenever prior to the receipt by any school district or county school service fund of its state, county, city and county, or district funds, any school district or county school service fund of a county or city and county does not have sufficient money to its credit to meet current expenses of maintenance, the board of supervisors of the county or city and county shall order, and the auditor and treasurer of the county or city and county shall make a temporary transfer from any funds of the county or city and county not immediately needed to pay claims against them to the school fund of the district or county school service fund of the amount needed, not exceeding 85 percent of the amount of money which will accrue to the school district or county school service fund during the fiscal year. Upon the making of the transfer the auditor shall immediately notify the superintendent of schools of the county or city and county of the amount transferred. Each transfer of funds requested under this section shall be granted in order of receipt by the board of supervisors, regardless of whether sufficient county funds are available for transfer to meet pending or anticipated requests of school districts.

The funds transferred under this section to the credit of a school district or county school service fund shall be retransferred by the auditor and treasurer to the fund from which they were taken from the first moneys accruing to the school district or county school service fund and before any other obligation of the school district or county school service fund is paid from the money accruing.

42621. The county superintendent of schools of each county with the approval of the County Board of Education, may make temporary transfers to any school district which does not have sufficient money to its credit to meet current operating expenses from the county school service fund, in such amounts and at such times as he deems necessary. Such transfers shall not exceed 85 percent of the amount of money accruing to the school district at the time of transfer. The amounts so transferred shall be repaid to the county school service fund prior to June 30 of the current year from any funds subsequently received by the school district.

42622. The county superintendent of schools, with the approval of the county board of education, may make an apportionment to a school district from the county school service fund conditional upon the repayment to the fund during the next succeeding fiscal year of the amount apportioned to the district and shall, during the next succeeding fiscal year, transfer the amount of such apportionment from the general fund of the district to the county school service fund.

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

The funds transferred under this section to the general fund of a newly organized school district shall be retransferred by the auditor and the treasurer to the fund from which they were taken from the first moneys accruing to the school district after it becomes effective for all purposes pursuant to Section 4000 and before any other obligation of the school district is paid from the money accruing.

#### Article 4. General Provisions—Orders, Requisitions and Warrants

42630. Except as otherwise provided in this code, money shall be paid from the funds of any school district for the payment of the expenses of the district, only as provided in this article.

42631. All payments from the funds of a school district shall be made by written order of the governing board of the district. Orders shall be on forms prescribed by the county superintendent of schools. Forms shall be printed and furnished by the board of supervisors.

42632. Each order drawn on the funds of a school district shall be signed by at least a majority of the members of the governing board

of the district, or by a person or persons authorized by the governing board to sign orders in its name. No person other than an officer or employee of the district shall be authorized to sign orders.

42633. The governing board of each school district shall be responsible for filing or causing to be filed with the county superintendent of schools the verified signature of each person, including members of the governing board, authorized to sign orders in its name. No order on the funds of any school district shall be approved by the county superintendent of schools unless the signatures are on file in his office and he is satisfied that the signatures on the order are those of persons authorized to sign the order.

42634. Each order drawn against the funds of a school district shall be numbered and shall state: (a) the particular fund or funds of the district against which it is drawn, (b) the amount of the payment to be made from each fund, and (c) the rate of salary and the period of service of any employee of the district for whom an order is issued for payment of salary or wages. If drawn for any purpose other than the payment of salaries or wages of school district employees, the order shall be accompanied by an itemized bill showing the separate items and the price of each.

42635. Each order drawn against the funds of a school district shall be transmitted to the county superintendent of schools, and, if approved and signed by him shall become a requisition on the county auditor.

42636. The county superintendent of schools shall examine each order on school district funds transmitted to him, in the order in which it is received in his office. If it appears that the order is properly drawn for the payment of legally authorized expenses against the proper funds of the district, and that there are sufficient moneys in the fund or funds against which the order is drawn to pay it, he shall endorse upon it "examined and approved," and shall, in attestation thereof, affix his signature and number and date the requisition and transmit it directly to the county auditor, in the order in which the order is received in his office.

42637. If at any time during a fiscal year the county superintendent of schools concludes that the expenditures of any school district within his jurisdiction are likely to exceed the anticipated income of the district for that fiscal year, he shall notify such district in writing of such conclusion and he may conduct a comprehensive review of the financial and budgetary conditions of the district. The superintendent shall report his findings and recommendation to the governing board of the district and may include recommendations of methods by which the budgeted expenditures for the balance of the fiscal year may be brought into balance with the revenue of the district. Such report shall be made to the governing board at a public meeting of the governing board. The governing board shall, no later than 15 days after receipt of such report, notify the county superintendent of schools of its proposed

actions on his recommendations.

42638. If the order is disapproved by the county superintendent of schools, it shall be returned to the governing board of the school district, except as otherwise provided in this code for the registration of warrants, with a statement of his reasons for disapproving the order.

42639. The county auditor shall examine each order and requisition on school district funds transmitted to him by the county superintendent of schools. If he allows the order and requisition, he shall endorse thereon "examined and allowed," and shall date, number, and sign it, whereupon it shall become a warrant on the county treasurer. The auditor shall detach any bill attached to the requisition, and shall number the bill, giving it the same number which he gives the warrant, and file it in his office. He shall thereupon return the order, requisition, and warrant to the county superintendent of schools who shall transmit it to the governing board of the school district for issuance to the payee or to his order.

Any requisition of the county superintendent of schools, whether based upon written order of the governing board of a school district or authorized by law, shall constitute full authority for the signature for allowance thereof by the county auditor as a warrant on the county treasurer, and no other authority shall be necessary or required for such action by the county auditor.

"Requisition," as used in this section, includes any order or demand signed by the county superintendent of schools directing the county auditor to draw his warrant on the county treasurer.

42640. In lieu of drawing his warrant as provided in Section 42639, the county auditor may, with the approval of the governing board of the school district, endorse, date, and number the order and requisition and may prepare a separate warrant on the county treasurer for the same amount as the order and requisition. The warrant shall show that it had been drawn on the order of a school district naming the school district and shall show, the payee, date of issue, as well as other information deemed appropriate by the auditor.

The auditor shall draw such separate warrant by signing it and no other signature shall be required. Thereupon the auditor shall transmit the separate warrant to the county superintendent of schools who shall transmit it to the governing board of the school district for issuance to the payee or to his order, or with the approval of the governing board of the school district, shall transmit it to the payee.

The order and requisition may direct the transfer of the amount of the separate warrant from the funds of the district to a clearing fund in the county treasury (to be known as the schools commercial revolving fund), to the end that separate warrants for all districts may be drawn against a single revolving fund.

42641. The governing board of any school district may, with the approval of the county auditor and county treasurer, in lieu of issuing

single orders for the payment of the salary or wages of each employee, issue payroll orders, on forms prescribed by the county superintendent of schools and approved by the Superintendent of Public Instruction, for the payment of the salaries or wages of two or more employees. Payroll orders may be drawn only for the payment of salaries and wages of employees, and shall constitute requisitions on the county auditor and warrants on the county treasurer when approved and signed by the county superintendent of schools and allowed and signed by the county auditor, respectively.

42642. Each payroll order drawn pursuant to this article shall be drawn, approved, and issued in the same manner and shall contain the same minimum content as prescribed for single orders. Each payroll order shall list the names of all employees in whose favor the order is drawn and shall state the amount of money due each.

42643. The superintendent of schools of each county shall keep, open to the inspection of the public, a register of warrants, showing the fund upon which the requisitions have been drawn, the number, in whose favor, and for what purpose they were drawn.

42644. Orders for the payment of wages and payroll orders for the payment of wages of employees employed full time in positions not requiring certification qualifications shall be drawn twice during each calendar month on days designated in advance by the governing board of each school district to which this section is made applicable. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

The governing board of each school district which has an average daily attendance of 5,000 or more, and the governing board of each school district with an average daily attendance of less than 5,000 in a county with a population in excess of 4,000,000 persons as determined by the 1960 federal census, shall make the provisions of this section applicable to the board, whenever a majority of the employees of the district employed full time in positions not requiring certification qualifications petition the board in writing to do so.

The governing board of a school district which has an average daily attendance of less than 5,000, other than such a school district situated in a county with a population in excess of 4,000,000 persons as determined by the 1960 federal census, may, on the petition in writing of a majority of the employees of the district employed full time in positions not requiring certification qualifications, make the provisions of this section applicable to the board.

42645. In any unified school district with 100,000 or more average daily attendance as an alternative to the payment procedures prescribed by Section 42644, orders for the payment of wages, and payroll orders for the payment of wages and warrants for the

payment of wages of employees employed full time in positions not requiring certification qualifications shall be drawn once each two weeks, twice a month, or once each four weeks on days designated in advance by the governing board of the district. Labor performed during each such payroll period shall be paid for not later than the eighth working day of the following payroll period.

42646. In any county, the county superintendent of schools, with the approval of the Superintendent of Public Instruction, the county board of education and the county auditor, may prescribe a payroll procedure, to be followed by designated districts in the county, under which the school district governing boards, by use of payroll orders, shall authorize and direct the county superintendent of schools and the county auditor to draw separate payroll warrants in the names of the individual district employees for the respective amounts set forth therein to the end that each employee may be furnished with a statement of the amount earned and an itemization of the amounts withheld therefrom under requirements of the law or by direction of the employee.

Such payroll warrants shall show the closing date of the pay period for which issued and the date of issue and a statement that it is drawn by order of the governing board of the district and shall bear the signature of the county auditor.

To obtain the advantage of a uniform pay period and pay date within school districts, the payroll procedure may specify the ending date of the pay period and, notwithstanding Sections 42644, 45040, and 45048, the date of issue for payroll warrants, except that the issue date shall be on or before the 10th calendar day following the end of the pay period. The payroll procedure may provide for salary payments, including salary advances, more frequently than once a month.

The payroll procedure may provide for payroll orders authorizing salary payments to individual employees on a continuing basis until such time as notifications of changes or adjustments are submitted by the school districts, provided that an itemized listing of payments made under this procedure is furnished to the school district on or before the date of issue of the payroll warrants.

The payroll order may direct the transfer from the districts' funds to a clearing fund in the county treasury, to be known as the schools payroll revolving fund, of the total of the amount of the payroll warrants to be issued under the order to the end that payroll warrants for all districts may be drawn against a single revolving fund. The payroll order may further direct the transfer from the districts' funds of the totals of the various deductions set forth therein to the trust funds in the county treasury entitled to receive credit for them and may further direct the proper disbursement of such trust amounts.

When the payroll procedure provides for payment of salary once each month the payment shall be made on the last working day of the month as required by Section 45166.

42647. With the approval of the Superintendent of Public Instruction, the governing board of a unified school district, or district with over 10,000 average daily attendance may cause to be drawn all warrants on the county treasurer against all the funds, except debt service, of the district in the county treasury in the payment of the expenses of the district. The warrants shall be issued by a person designated as the district auditor or district disbursing officer for the school district on the county treasurer in favor of the persons entitled thereto in payment of all claims chargeable against the district which have been legally examined, allowed, and ordered paid by the governing board. The district auditor shall issue warrants on the county treasurer for all debts and demands against the district when the amounts are fixed by law. The form of the warrant shall be as prescribed by the governing board and approved by the county auditor or county treasurer having jurisdiction.

Notwithstanding Section 42631 of the Education Code, the cost of printing the warrants shall be borne by the district.

No county officer shall be responsible for producing reports, statements, and other data relating to or based on these payments of the expenses of the districts. Those districts issuing warrants as provided by this section shall provide the county superintendent of schools, in the form prescribed by him, with the data necessary to make retirement reports and other reports required of him by law. All warrants, vouchers, and supporting documents shall be kept by the school districts that draw their own warrants.

Notwithstanding Section 27005 of the Government Code, or any other section requiring orders for warrants or warrants to be signed by the county superintendent of schools or the county auditor, or both, the county treasurer shall pay the warrant, if money is available.

Notwithstanding Section 41000 of the Education Code, except for assessing and tax collecting, the county auditor and the county treasurer may charge those districts that draw their own warrants for the cost of all fiscal services.

The person authorized by the governing board of the district to issue warrants pursuant to this section shall execute an official bond in an amount fixed by the governing board conditioned upon the faithful performance of his duties under this section. A county superintendent of schools or a county auditor shall not be liable under the terms of their bonds or otherwise for any warrant issued pursuant to this section. It is not intended that this provision shall be applied so as to impair the obligation of any contract in the bond of such officer in effect on the effective date of this section.

A listing of the warrants issued under this section by each school district shall be forwarded to the county auditor having jurisdiction, upon his request, and to the county superintendent of schools having jurisdiction over the district on the same day warrants are issued. The listing, which may be magnetic tape, punched cards, or in other form, shall report, among other things, the warrant number, date of

the warrant, amount of the warrant, the name of the payee, and the fund on which drawn.

The form and content of the warrant listing shall be as prescribed by the governing board and approved by the county auditor having jurisdiction.

Each unified school district or district with over 10,000 average daily attendance which issues warrants pursuant to this section shall furnish monthly to the county superintendent of schools and the county auditor of the county of jurisdiction, upon his request, a statement showing for the current fiscal year to date, for each required expenditure classification, the amount budgeted, actual expenditures, encumbrances and unencumbered balances.

In order to obtain the approval of the Superintendent of Public Instruction, a unified school district, or district with over 10,000 average daily attendance shall file a written application with the county superintendent of schools of jurisdiction on forms which the Superintendent of Public Instruction shall prescribe. Upon receipt of an application from the district, the county superintendent of schools shall cause a survey to be made of the district's accounting controls by an independent certified public accountant or public accountant in accordance with standards prescribed by the Department of Finance. The certified public accountant or public accountant shall report his findings and recommendations to the county superintendent, county auditor, and to the applicant district. The county superintendent shall forward the district's application, together with his recommendations and the recommendations of the county auditor and the report of survey, to the Superintendent of Public Instruction who shall approve or disapprove the application. The Superintendent of Public Instruction shall approve the application only if he finds the accounting controls of the district are adequate. If the Superintendent of Public Instruction determines that such controls are inadequate, he shall disapprove the application. The county superintendent of schools shall be reimbursed from the district funds for all costs incident to the accounting controls survey made pursuant to the district's application.

When approved by the Superintendent of Public Instruction, the issuance of warrants pursuant to this section shall be effective at the beginning of the fiscal year, provided that the approval had been made prior to the preceding first day of January. If disapproved, the Superintendent of Public Instruction and the county superintendent of schools shall state the specific steps which must be taken by the school district in order to receive approval. If at any time the county superintendent of schools determines that the accounting controls of the district have become inadequate, he may recommend to the Superintendent of Public Instruction that the approval be revoked effective at the first of the fiscal year next following.

42648. The provisions of Article 3 (commencing with Section 29850) of Chapter 5 of Division 3 of Title 3 of the Government Code

shall be applicable to any unified school district, or district with over 10,000 average daily attendance authorized to issue warrants pursuant to Section 42647; except that whenever any reference is made in said Article 3 to (1) the county auditor, or (2) the general fund of the county, such reference shall be deemed, for purposes of this section, to be to (1) the person authorized to issue warrants pursuant to Section 42647, and (2) the general fund of the school district, respectively.

#### Article 5. Void Warrants

42660. Unless otherwise provided by county ordinance, any school warrant not presented to the county treasurer within six months after it was issued is void and any order issued by the governing board of a school district, but not approved by the county superintendent of schools for want of funds, is void if not presented to the county superintendent of schools within two years after notice has been given that the order will be approved on presentation. The county auditor shall each month inform the county superintendent of schools of warrants which have become void during the preceding month and the county superintendent of schools shall transmit such information to the governing board of the school district together with information as to orders which have become void.

Any time within two years from the date on which the original warrant became void, the payee, assignee, or the legal representative or heir of a deceased payee of any warrant which is void as provided in this section may present such warrant to the governing board of the school district which issued the order on which the warrant was drawn, or declare by affidavit that such warrant has been lost or destroyed, and the governing board may adopt an order instructing the county auditor to draw a new warrant in favor of the payee in the same amount as the original warrant, or the governing board may by resolution authorize the county auditor to draw new warrants within the limitations prescribed by the resolution without prior individual order of the governing board, provided the limitations prescribed by this section have been complied with. Any such new warrant shall be subject to the same limitations as the original warrant which it replaces.

42661. Any warrant drawn on the funds of a district retirement system and issued to the claimant thereof but not presented for payment to the county treasurer within two years after it was issued is void and the proceeds of such warrants shall revert to and become a part of the contributions of the district and shall be applied to reduce the cost to the taxpayers of the district maintaining the retirement system. The county auditor shall each month inform the county superintendent of schools of warrants which have become void during the preceding month, and the county superintendent of schools shall transmit such information to the governing board of the school district.

42662. The county superintendent of schools shall keep a record of all orders, or warrants which have become void.

#### Article 6. Orders and Warrants When Moneys Are Not Available

42670. When any order against the funds of a school district is presented to the county superintendent of schools, and the order constitutes a valid claim against the funds of the district, and moneys are not available in the funds of the district from which to pay the order, he shall endorse on the order the words "Not approved for want of funds" and shall register the order in the records of his office.

42671. The county superintendent of schools shall number and date the registered order and shall transmit the registered order to the governing board of the school district which drew the order, and it shall deliver the registered order to the payee or his order. From the date of registration the registered order shall bear interest at the rate of 5 percent per annum until the date upon which notice is given, pursuant to this article, that the county superintendent of schools is ready to approve the registered order.

42672. Whenever moneys are available for the payment of the registered order the county superintendent of schools shall give notice, in a newspaper published in the county, or if there is no newspaper, by written notice posted at the courthouse, stating that he is ready to approve the order. The notice may list any number of registered orders of one or more districts for the payment of which moneys are available, giving the name or names of the district or districts and listing the registered orders in the order of registration for each district.

42673. At the time of giving the notice the county superintendent of schools shall set aside in the funds of each district for a period of 60 days the amount necessary for the payment of the registered orders of the district listed in the notice. If any registered order is not presented to the county superintendent of schools for payment within 60 days after the notice has been given, and moneys are not available to pay the registered order at the time of presentation, it shall not be approved until money becomes available for that purpose and notice is again given that the county superintendent of schools is ready to pay it.

42674. The county superintendent of schools shall approve the registered orders of each district, and sign them as requisitions on the county auditor, in the order of their presentation. He shall enter on each the amount of interest due and the total amount, including principal and interest, payable. Each approved registered order shall thereupon be governed by the procedure established in this code relative to payments from school district funds.

42675. As an alternative to the method provided in Section 42674, when any corporation, firm, or person presents two or more registered orders for payment at the same time, registered on the same date, and issued against the funds of the same district, the

registered orders may be approved, allowed, and consecutively numbered by the county superintendent of schools and the county auditor as requisitions and warrants on the funds of the district, and a special interest requisition may be issued by the county superintendent of schools against the funds of the district for the total amount of the interest payable on the registered orders.

42676. The special interest requisition shall bear upon its face substantially the following notation: "In full payment of interest due on warrants numbered \_\_\_\_ to \_\_\_\_, inclusive, of the \_\_\_\_\_ School District."

42677. The special interest requisition shall be numbered by the county superintendent of schools and county auditor, being given the number immediately succeeding the number assigned to the last of the requisitions and warrants referred to in Section 42675.

42678. The county superintendent of schools shall report to the county treasurer and the county auditor within 10 days after the end of each month the amount of the interest computed pursuant to this article. The report shall show each district for which interest has been computed, the numbers of the registered orders for which the interest is to be paid, and the total amount of the interest charged to each district. He shall also, upon transmitting to the governing board of any school district registered orders which have been approved and allowed as warrants against the funds of the district, report in writing to the clerk or secretary of the district the amount of interest computed on the registered orders and the numbers of the registered orders for which the interest is to be paid.

#### Article 7. Optional Method—Registering Warrants

42690. In lieu of the method provided in Article 6 (commencing with Section 42670) of this chapter for the registration of school district orders, the provisions of this article may be followed upon resolution adopted by the county board of supervisors of any county.

42691. When any order on school district funds is received by the county superintendent of schools and there is insufficient money in the fund or funds against which the order is drawn to pay the order in full, the county superintendent shall endorse on the order "to be registered for lack of sufficient funds," sign, date, and number it as a requisition on the county auditor, and transmit the requisition to the county auditor. The county auditor shall endorse on the order "examined and allowed," sign, date, and number it as a warrant on the county treasurer, and return the warrant to the county superintendent of schools who shall transmit it to the governing board of the school district for issuance to the payee or to his order.

42692. When the warrant is presented to the county treasurer for payment, he shall endorse, register, advertise, and pay it, with interest at the rate of 5 percent per annum, in the manner prescribed, as nearly as may be, for county warrants in Sections 29821 to 29824, inclusive, and Sections 29826 and 29827 of the Government Code.

42693. If the warrants are not again presented for payment within 60 days from the time the notice provided for in Section 29823 of the Government Code is given, the fund set aside for the payment of the warrants shall be applied by the treasurer to the payment of unpaid warrants next in order of registry.

42694. Within 10 days after the end of each month, the county auditor shall report to the superintendent of schools the amount of interest added to registered warrants and paid during the preceding month. The report shall show each district to whose registered warrants, paid during the month covered by the report, interest was added and the amount of the interest for the district. The superintendent of schools shall immediately report, in writing, to the clerk or secretary of each district for which interest was paid, the amount of the interest paid for the district.

## CHAPTER 10. REVOLVING FUNDS, SCHOOL DISTRICTS

### Article 7. Revolving Cash Fund

42800. The governing board of any school district may, with the consent of the county superintendent of schools, establish a revolving cash fund for the use of the chief accounting officer of the district, by adopting a resolution setting forth the necessity for the revolving cash fund, the officer for whom and the purposes for which the revolving cash fund shall be available, and the amount of the fund. The purposes for which the revolving cash fund shall be available shall include the purposes specified in Section 45167. The amount of the fund shall not be more than 2 percent of the district's estimated expenditures for the current fiscal year and shall not in any event exceed twenty-five thousand dollars (\$25,000) for any elementary school or high school district; and fifty thousand dollars (\$50,000) for any unified school district. Three certified copies of the resolution shall be transmitted to the county superintendent of schools. If he approves the establishment of the fund, the county superintendent shall endorse his consent on the resolution and return one copy to the governing body of the district, and transmit one copy to the county auditor.

42801. (a) Except as otherwise provided in subdivision (b) of this section, the officer for whose use the revolving cash fund is created shall file with the governing body of the district a bond in favor of the district, executed by him as principal and by a surety company authorized under the laws of the state to execute bonds as surety, in an amount not less than double the amount of the revolving cash fund. The bond shall be conditioned upon the faithful administration of the revolving cash fund and upon the willingness and ability of the principal to account for and pay over the revolving cash fund at any time upon the demand of the governing board of the district. The premium on the bond shall be a legal charge against

the district, payable from the funds of the district.

(b) In lieu of the bond required by subdivision (a) of this section, an officer may be bonded as provided by Section 41021.

42802. No bond shall be required when the revolving cash fund does not at any time exceed twenty-five dollars (\$25).

42803. The governing board of the district shall draw an order, on the form and in the manner required by law for order, requisition, and warrant for the payment of school moneys, payable from the county or special fund of the district, in favor of the officer for whose use the revolving cash fund is created, for the amount of the revolving cash fund, and transmit the order to the county superintendent of schools accompanied by the bond and a certified copy of the resolution. Upon his approving the order, the county superintendent of schools shall detach and retain the bond. Upon his allowing and signing the warrant, the county auditor shall detach and retain the certified copy of the resolution and the county treasurer shall pay the warrant.

42804. The person entrusted with the revolving fund shall not be authorized to expend any portion of the fund except for services or material, the securing or purchasing of which is a legal charge against the district, and no expenditure shall be made unless a receipt is obtained therefor setting forth the date and the purpose of the expenditure and the amount expended. The governing board of any school district may establish and account for the revolving fund in one or more banks. The account shall be known as "The Revolving Fund Account of (insert name of district) District" and shall be established in the custody of the officer for whose use the revolving cash fund is created who shall be responsible for the payment into the account or accounts of all moneys required to be reimbursed into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes. A bill shall be presented to the district monthly, or oftener if necessary, for the reimbursement of the fund in the same manner as other bills are presented. Bills shall be supported by the receipts required. All sums received in payment of the bills shall be returned to the revolving cash fund or bank account or accounts and each person entrusted with the revolving cash fund shall, upon demand of the county superintendent of schools or the county auditor or of the governing board of the district, give an account of the fund.

42805. The governing board of the district may at any time reduce or discontinue any revolving cash fund established by its order. Whenever the fund is ordered reduced the person using it shall immediately return to the county treasury the amount necessary to reduce the fund, as ordered by the board. If the fund is discontinued, the person using it shall immediately refund the amount thereof to the county treasurer. In either event a reasonable time shall be allowed the person to reimburse himself by bills presented to the school district for expenditures legally made from the fund.

42806. The county superintendent of schools may, with the consent of the county board of education, establish a revolving cash fund for the use of the chief accounting officer of the county superintendent of schools, by adopting a resolution setting forth the necessity for the revolving cash fund, the officer for whom and the purposes for which the revolving cash fund shall be available, and the amount of the fund. The purposes for which the revolving cash fund shall be available shall include the purposes specified in Section 45167. The amount of the fund shall not be more than 2 percent of the estimated expenditures of the county superintendent of schools for the current fiscal year and shall not in any event exceed ten thousand dollars (\$10,000). Three certified copies of the resolution shall be transmitted to the county board of education. If the county board of education approves the establishment of the fund, the chairman shall endorse his consent on the resolution and return one copy to the county superintendent of schools and transmit one copy to the county auditor.

#### Article 2. Alternative Revolving Cash Fund

42810. In addition to establishing or maintaining a revolving cash fund under the provisions of Article 1 (commencing with Section 42800) of this chapter, the governing board of any school district having an average daily attendance of 20,000 or more may, by resolution, establish revolving cash funds for use by school principals and other administrative officials designated by the governing board and acting in accordance with regulations prescribed by the governing board, for services or matériel and for the purposes specified in Section 45167. The resolution shall set forth the necessity for the revolving cash funds, the principals of schools and other administrative officials of the school district designated by the governing board, the purposes for which the revolving cash funds shall be made available, and the amount of such funds. The total amount of such funds for each district shall not exceed 3 percent of the current year's instructional supply budget.

The governing board of any school district may establish a checking account for the revolving fund in one or more banks. The account shall be established in the custody of the principal or other administrative official designated by the governing board for whose use the revolving cash fund is created. The principal or administrative official in whose name the revolving cash fund is created shall be responsible for all expenditures therefrom, subject to such regulations as the governing board prescribes. The governing board shall provide for an audit of such funds on a regular basis.

The revolving cash fund for supplies shall be subject to the bonding provisions of Section 42801.

### Article 3. Prepayment Funds

42820. The governing board of any school district may establish a revolving cash fund in any bank, whose deposits are insured by the Federal Deposit Insurance Corporation, for the purpose of paying bills as prescribed in Section 42821. The provisions of Article 1 (commencing with Section 42800) of this chapter shall not apply to the revolving cash fund established pursuant to this article.

The governing board may appropriate money from the county or joint school district fund in the county treasury belonging to the school district to establish the revolving cash fund.

The maximum amount in the revolving cash fund shall be as follows:

(a) In a school district with 20,000 or more units of average daily attendance, ten thousand dollars (\$10,000).

(b) In a school district with 5,000 or more, but less than 20,000 units of average daily attendance, five thousand dollars (\$5,000).

(c) In a school district with 500 or more, but less than 5,000 units of average daily attendance, two thousand five hundred dollars (\$2,500).

(d) In a school district with less than 500 units of average daily attendance, one thousand dollars (\$1,000).

42821. The governing board of any school district which has established a revolving cash fund pursuant to Section 42820 shall designate a person or persons who shall be authorized to make immediate payments by check, drawn on the revolving cash fund, for purchases in an amount of one hundred dollars (\$100) or less, including tax and freight, or at the time of preparing the order for such purchases to make such check payable to the vendor permitting him to fill in the amount to be paid upon shipment of the purchases, such check to state on its face that it is not valid for more than one hundred dollars (\$100).

A monthly list of such payments shall be submitted to the governing board by the designated person or persons for approval.

Upon approval of such expenditures by the governing board, the clerk of the governing board shall draw an order for the replenishment of the revolving cash fund from the county or joint school district fund in the county treasury belonging to the school district. Such order shall be treated in the same manner as prescribed for payment of other claims against the funds of the school district.

Any person who issues a check drawn on the revolving cash fund shall be personally liable for the amount of the check only if the expenditure is in violation of rules and regulations established by the governing board with respect to the revolving cash fund.

### Article 4. Revolving Warehouse Stock Funds

42830. The governing board of any elementary school district or high school district, may, if the school district maintains a stock of

merchandise for school use, establish a revolving fund for budget control and stock accounting purposes, by adopting a resolution setting forth the necessity for the revolving fund, the purpose for which it shall be used and the amount thereof. Three certified copies of the resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of the fund, shall endorse his consent upon the resolution, return one copy to the governing board of the school district and transmit one copy to the county auditor.

The governing boards of two or more school districts of any type may, if the school districts maintain a stock of merchandise for school use, establish a common revolving fund for budget control and stock accounting purposes, by adopting a resolution of each district setting forth the necessity for the revolving fund, the purpose for which it shall be used and the amount thereof. Three certified copies of the resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of the fund, shall endorse his consent upon the resolution, return one copy to the governing board of the school districts and transmit one copy to the county auditor.

42831. The amount of the revolving fund shall not exceed an amount from the general fund of the district equal to the average daily attendance of the district for the next preceding year multiplied by fifteen dollars (\$15) plus such amounts as the governing board of the district may, in its discretion, appropriate from other funds of the district, including building funds, and shall be determined as follows: The inventory of stores on hand including the cost of receiving and storing such stores of the school district at the time of the establishment of the fund, which stores and costs have been paid for from school district funds and reported to the county superintendent, plus whatever sum the governing board in its discretion may appropriate from the various funds of the district, including building funds, not to exceed an aggregate sum determined as above, including stores on hand, costs of receiving and storing such stores and designated appropriations, shall be the amount to constitute the revolving fund of the district.

Where a common revolving fund is established for two or more school districts, the amount of the revolving fund shall not exceed an amount from the general funds of the districts equal to the average daily attendance of the districts for the next preceding year multiplied by fifteen dollars (\$15) plus such amounts as the governing boards of the districts, in their discretion, appropriate from other funds of the districts, including building funds, and shall be determined as follows: The inventory of stores on hand including the cost of receiving and storing such stores of each school district at the time of the establishment of the fund which stores and costs have been paid for from school district funds and reported to the county superintendent, plus whatever sums the governing board of each district in its discretion may appropriate from the various funds of

the district, including the building fund, not to exceed an aggregate sum as determined above, including stores on hand, costs of receiving and storing such stores and designated appropriations, shall be the amount to constitute the revolving fund, and each district shall retain its equity in the common fund.

The amount of any revolving fund once established as herein prescribed may be increased to an amount from general funds not in excess of the average daily attendance of the next preceding year multiplied by fifteen dollars (\$15) plus such amounts as the governing board, in its discretion, may appropriate from other funds of the district, including building funds, or decreased, in the discretion of the governing board, as the needs of the district may require, in the same manner and by the same procedure as herein prescribed for establishment of such fund.

Amounts expended from the revolving fund are restored thereto through payments into the revolving fund by warrants drawn on the various funds of the districts, including building funds, for shipments from stores for the use of the districts. The warrants shall be made payable to the "revolving fund of \_\_\_\_\_ (Here insert name or names of the school district or school districts establishing the fund.)"

42832. The revolving fund, when established, shall be used for the purchase of stores to be placed in stock and may be used for the payment of costs of receiving, storing, and delivering stores. Purchases shall be made in the manner prescribed by law. Nothing contained in this article shall be construed as repealing any other provisions of law relating to school district funds.

42833. The revolving fund shall be kept by the county treasurer as a separate fund and shall be subject to such uses only as are provided by law.

42834. The warehouse is a school plant and the costs of maintaining and operating it is a legal charge of the school district, and shall be audited and paid as other claims against the funds of the district.

#### Article 5. Special Reserve Fund

42840. The governing board of a school district may provide for the accumulation over a period of a school years of funds for capital outlay purposes and salaries of school district employees whose work is directly related to projects financed by such funds, derived from the receipt of taxes levied for the district and from other sources including balances, and not required to be used for other than capital outlay purposes.

42841. Upon the filing of identical copies of a resolution of the governing board with the superintendent of schools, auditor, and treasurer of the county specifying the purpose or purposes of a special reserve fund, the fund shall be established for such purpose or purposes. From time to time thereafter, the governing board may file identical copies of resolutions specifying additional purposes of

the fund or withdrawing any purpose previously designated. The auditor and treasurer shall transfer from the general fund to the special reserve fund of the district such amounts as may be specified by the governing board during the fiscal year.

42842. The governing board may expend the money in the fund for the purpose or purposes specified in any resolution filed pursuant to Section 42841 unless the purpose has been withdrawn pursuant to that section.

42843. Any moneys remaining in the special reserve fund of the district, except moneys placed in the fund pursuant to subdivision (b) of Section 2106 or subdivision (b) of Section 2109, shall be transferred to the general fund of the district by the auditor and treasurer upon written request to the superintendent of schools, auditor, and treasurer of the county by the governing board of the district, and the auditor and treasurer shall discontinue the special reserve fund.

#### CHAPTER 11. REIMBURSEMENT FOR COSTS OF EDUCATION OF INSTITUTIONAL CHILDREN AND NONIMMIGRANTS

42900. Whenever a school district provides education in kindergarten or grades 1 through 12 for nonimmigrant children or noncitizen children without immigration status, the district shall be reimbursed for the actual cost of educating each such nonimmigrant child or noncitizen child without immigration status by the county or city and county in which the school district is located. For the purposes of this chapter, such nonimmigrant child or noncitizen child without immigration status shall be deemed to be a resident of such county or city and county.

For the purpose of this section a "nonimmigrant child" is defined as an alien having a residence in a foreign country which he has no intention of abandoning, who is legally admitted to the United States as a nonimmigrant student or visitor, and who seeks to pursue a course of study in the public schools of this state. For the purpose of this section a "noncitizen child without immigration status" is defined as a child living in the United States who is not a citizen of the United States, who is without documentary evidence of United States immigration status, and who seeks to pursue or is pursuing a course of study in the public schools of this state.

42901. Notwithstanding Section 25 of the Civil Code or any other provision of law, for the purposes of this chapter, "minor" means a person under 21 years of age.

42902. Whenever a school district provides education in kindergarten or grades 1 through 12 for children who reside in a regularly established licensed children's institution, or in a hospital operated by a county, located either within or without the boundaries of the district, the district shall be reimbursed for the actual cost of educating each such child by the county or city and county in which the child resided prior to his admission to the

children's institution or the hospital. Whenever a school district provides education in kindergarten or grades 1 through 12 for children who reside in an institution or in a family home, pursuant to a commitment or placement under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code, located either within or without the boundaries of the district, or whenever a school district provides education in special schools or classes for mentally retarded pupils coming within the provisions of Section 56501 or 56515, physically handicapped pupils coming within the provisions of Section 56700, or educationally handicapped pupils educated pursuant to Section 56604, who reside in a licensed children's institution, or a family home, or a hospital operated by a county, located either within or without the boundaries of the district, the district shall be reimbursed for the actual cost of educating each such child by the county or city and county in which the child resided prior to his admission to the institution, or the home, or the hospital. If the child's prior residence cannot be ascertained or if his residence was outside the State of California, the district shall be reimbursed for the actual cost of educating such child by the county or city and county in which the institution, or family home, or the hospital is located. The pupil residing in an institution, or the family home, or the hospital under this section does not acquire residence in the district wherein the institution, or the family home, or the hospital is located during the period of residence in the institution, or the family home, or the hospital.

42903. Every person, association, corporation or public agency who maintains or conducts a children's institution or engages in referring children to family homes shall report to the county superintendent of schools of the county where the school district providing education for children pursuant to Section 42902 is situated, within 30 days, any referral to such family home or any admission to such children's institution and the county or city and county in which each such child resided prior to his referral to such family home or admission to such institution.

Such county superintendent shall notify the school district which provides education for children pursuant to Section 42902 of such referral or admission.

42904. The county or city and county of which any pupil described in Section 42900 or Section 42902 is a resident shall at the close of each school year pay to the district or county superintendent of schools educating such pupil the cost of educating such pupil during the school year. The cost shall be determined by dividing the total current expenses of the school district or county superintendent of schools during such school year less all apportionments from the state or allocations from the federal government received by the district or county superintendent of schools during such school year, by the total number of units of average daily attendance in such school district or in programs maintained by the county superintendent of schools during such school year.

The county or city and county of which any such pupil is a resident shall at the close of each school year also pay to the district or county superintendent of schools educating such pupil the excess expenditures of educating such pupil during the school year. The excess expenditures shall be determined by dividing the total excess expenditures of the school district or county superintendent of schools during such school year on account of educating such pupils less all special purpose apportionments from the state or allocations from the federal government on account of the excess costs of educating such pupils by the total number of units of average daily attendance of such pupils in such school, classes, facilities, or programs during such school year.

The average daily attendance for all such pupils who attend a junior high school in accordance with Sections 37060 to 37072, inclusive, and Section 48020 shall be credited to the elementary district in which the institution is located for apportionment purposes.

For the purpose of this section "excess expenditures" shall mean the additional expenditures made by the district or county superintendent during the school year for education of such pupils described in this chapter. Excess expenditures shall also include any tuition payments required to be paid by a district pursuant to Section 1705 for education of any pupil described in this chapter.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

42904. The county or city and county of which any pupil described in Section 42900 or Section 42902 is a resident shall at the close of each school year pay to the district or county superintendent of schools educating such pupil the cost of educating such pupil during the school year. The cost shall be determined by dividing the total current expenses of the school district or county superintendent of schools during such school year less all apportionments from the state or allocations from the federal government received by the district or county superintendent of schools during such school year, by the total number of units of average daily attendance in such school district or in programs maintained by the county superintendent of schools during such school year.

The county or city and county of which any such pupil is a resident shall at the close of each school year also pay to the district or county superintendent of schools educating such pupil the excess expenditures of educating such pupil during the school year. The excess expenditures shall be determined by dividing the total excess expenditures of the school district or county superintendent of schools during such school year on account of educating such pupils less all special purpose apportionments from the state or allocations from the federal government on account of the excess costs of educating such pupils by the total number of units of average daily attendance of such pupils in such school, classes, facilities, or programs during such school year.

The average daily attendance for all such pupils who attend a junior high school in accordance with Sections 37060 to 37072, inclusive, and Section 48020 shall be credited to the elementary district in which the institution is located for apportionment purposes.

For the purpose of this section "excess expenditures" shall mean the additional expenditures made by the district or county superintendent during the school year for education of such pupils described in this chapter. Excess expenditure shall also include any tuition payments required to be paid by a district pursuant to Section 1705 for education of any pupil described in this chapter.

42905. In addition to any other payments required by this chapter, where the education of children described in Section 42900 or Section 42902 is provided in buildings or facilities owned by the school district or county superintendent of schools, the county or city and county of the pupil's residence shall pay to the school district or county superintendent of schools, for the pupil's use of the buildings and facilities and appurtenant equipment, an amount per unit of average daily attendance of such children during the school year prescribed by whichever of the following subdivisions is applicable:

- (a) Thirty-five dollars (\$35) if an elementary school district.
- (b) Fifty-five dollars (\$55) if a high school district.
- (c) Forty-two dollars (\$42) if a unified school district.
- (d) Forty-four dollars (\$44) if a county superintendent of schools.

The moneys so received by the school district shall be deposited to the credit of its bond interest and redemption fund or its building fund. The moneys so received by the county superintendent of schools shall be deposited to the credit of the county school service fund of the county for use in providing school buildings and facilities for the use of the county superintendent of schools in educating mentally retarded pupils, physically handicapped pupils, and nonimmigrant children, as the case may be.

Except for mentally retarded pupils, physically handicapped pupils, and educationally handicapped pupils, no payment shall be made to a district under this section for children described in Section 42902 unless the district educates in kindergarten or grades 1 through 12, inclusive, at least 30 children described in Section 42902 in buildings or facilities owned by the district. No payment shall be made to a district under this section for children described in Section 42900 unless the district educates in kindergarten or grades 1 through 12, inclusive, at least 30 children described in Section 42900 in buildings or facilities owned by the district.

42906. Notwithstanding any other provisions of this chapter or of Article 3 (commencing with Section 16190) of Chapter 8 of Part 10 of Division 1 of Title 1 whenever the school district wherein the institution or family home is located does not have adequate special education facilities to provide for the education of physically handicapped or mentally retarded pupils, or educationally handicapped pupils described in Section 42902 if a program for such pupils is in operation, such school district shall apply pursuant to Section 16200 for such funds as may be necessary to construct needed facilities for the education of such pupils. The applicant school district shall accept such funds as are disbursed pursuant to the application whether or not the funds constitute the maximum amount applied for, and shall repay such funds in accordance with the provisions of Article 3 (commencing with Section 16190) of Chapter 8 of Part 10 of Division 1 of Title 1.

In addition to the payments required by Section 42905, when the district is providing education to any physically handicapped, mentally retarded, or educationally handicapped children described

in Section 42902 in facilities constructed pursuant to an application and apportionments under Section 6200, the county or city and county of the pupil's residence shall pay to the school district maintaining such facilities a pro rata share of the repayment required pursuant to Section 16200. The pro rata share shall be based upon the ratio in the previous fiscal year of units of average daily attendance of physically handicapped, mentally retarded, and educationally handicapped pupils subject to Section 42902 from the county or city and county of residence to the total number of such units of average daily attendance. Payments so received by the school district maintaining the facilities shall be deposited in the general fund of the district to offset amounts withheld by the State Controller pursuant to Section 16200.

42907. The district maintaining such school or classes shall forward its claim on forms prescribed by the Superintendent of Public Instruction not later than the 15th day of July of each year to the county superintendent of schools of the county, or city and county, wherein the district is located, who shall certify and present the claim to the county superintendent of the county, or city and county, of the pupil's residence.

42908. The county superintendent of schools in each county, and city and county, shall file with the board of supervisors not later than the eighth day of August of each year a request for sufficient funds to pay the total amount of claims presented to him in accordance with this chapter.

If during any fiscal year the county superintendent of schools determines that an amount of at least one hundred dollars (\$100) more or an amount of at least one hundred dollars (\$100) less than was required for the claim of any individual district under Section 42907 included in a request filed by him with the county board of supervisors during a prior fiscal year, such amount shall, not later than the third succeeding fiscal year, be added to or deducted from the request for funds for the then current fiscal year.

42909. The board of supervisors of each county, and city and county, shall annually, at the time and in the manner of levying other county, and city and county taxes, levy and cause to be collected a tax for the payment of claims submitted pursuant to this chapter.

42910. The moneys received from such county tax shall be deposited in the county treasury to the credit of the county school service fund. On or before the first Monday in February and the first Monday in June of each year, the county auditor shall notify the county superintendent of schools of the amount of money in the treasury available for the payment of claims authorized by this chapter.

The county superintendent of schools shall thereupon disburse the money to the school districts which have qualified for reimbursement pursuant to this chapter.

42911. The State Superintendent of Public Instruction may furnish the forms and shall prescribe the procedures required of

school districts and county superintendents of schools under this chapter, and shall adopt all rules and regulations necessary for carrying out its provisions.

Such rules and regulations shall require the county superintendent of schools to list the nonimmigrant children and noncitizen children without immigration status by name and address and submit such list to the board of supervisors. The board of supervisors shall forward a copy of such list to the appropriate regional office of the United States Immigration and Naturalization Service.

## PART 25. EMPLOYEES

### CHAPTER 1. EMPLOYEES

#### Article 1. General Provisions

44000. Unless the context otherwise requires, the definitions set forth in Sections 44000 to 44012, inclusive, shall govern the construction of this part.

44001. "Education position" or "position requiring certification qualifications" includes every type of service for which certification qualifications are established by or pursuant to Sections 44000 to 44012, inclusive, Section 44065, and Chapter 2 (commencing with Section 44200) of this part.

44002. A "credential" is a document issued by the State Board of Education or the Commission for Teacher Preparation and Licensing, authorizing a person to engage in the service specified in the credential.

44003. A "life diploma" is a document issued on the basis of a credential upon completion by the applicant of specified requirements.

44004. The word "certificate" used as a noun refers to the document issued by a county board of education to license the holder to perform the service specified in the certificate.

44005. The word "certificate" used as a verb refers to the act of licensing individuals for employment in educational positions.

44006. The term "certificated person" refers to a person who holds one or more documents such as a certificate, a credential, or a life diploma, which singly or in combination license the holder to engage in the school service designated in the document or documents.

44007. The term "certification document" as used in this code includes only certificates, credentials and life diplomas.

44008. A termination of probation and dismissal of an accusation or information pursuant to Section 1203.4 of the Penal Code shall not, for the purpose of this division have any effect.

44009. A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury is deemed to be a conviction within the meaning of Sections 44346, 44425, 44436, 44836, and 45123 of this code,

irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information. The record of such conviction of a sex offense as defined in Section 44010 or of a narcotics offense defined in Section 44011 shall be sufficient proof of conviction of a crime involving moral turpitude for the purposes of Sections 44892, 44907 and 44923, and Sections 44932 to 44947, inclusive, of this code, relating to the dismissal of permanent employees.

44010. "Sex offense" as used in Sections 44346, 44425, 44436, 44836, and 45123 means any one or more of the offenses listed below:

(a) Any offense defined in Section 266, 267, 285, 286, 288, 288a, 647a, subdivision 3 or 4 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 if the offense defined in such sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961 if such offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

44011. "Narcotics offense" as used in Sections 44346, 44425, 44436, 44836, and 45123 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11366, 11368, and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

44012. Any record of conviction of any applicant for, or holder of, a certification document, shall, for the purposes of this division, be admissible in evidence in any civil action or administrative proceedings pertaining to the issuance, suspension or revocation of such certification document, any provision of law to the contrary notwithstanding.

44013. In order to assist school district employees to secure employment during vacation periods in occupations which tend to contribute to their rendering improved service as employees of the school district, any governing board of a school district or districts, in which the average daily attendance of all said districts combined is in excess of 200,000, is authorized to provide service necessary for aiding its employees in securing such employment.

44014. (a) Whenever any employee of a school district or of the office of a county superintendent of schools is attacked, assaulted, or menaced, by any pupil, it shall be the duty of such employee, and the duty of any person under whose direction or supervision such employee is employed in the public school system who has knowledge of such incident, to promptly report the same to the appropriate law enforcement authorities of the county or city in which the same occurred. Failure to make such report shall be a misdemeanor punishable by a fine of not more than two hundred dollars (\$200).

(b) An act by any member of the governing board of a school district, a county superintendent of schools, or any employee of any school district or the office of any county superintendent of schools, which is designed directly or indirectly to influence or urge a person under a duty to make the report prescribed by subdivision (a) not to make such report, shall be a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars (\$100) or more than two hundred dollars (\$200).

44015. The governing board of a school district may make awards to employees who:

(a) Propose procedures or ideas which thereafter are adopted and effectuated, and which result in eliminating or reducing district expenditures or improving operations; or

(b) Perform special acts or special services in the public interest; or

(c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in operations of the school district.

Before any such awards are made, the governing board shall adopt

rules and regulations. The board may appoint one or more merit award committees made up of district officers, district employees, or private citizens to consider employee proposals, special acts, special services, or superior accomplishments and to act affirmatively or negatively thereon or to provide appropriate recommendations thereon to the board.

Any award granted under the provisions of this section which may be made by an awards committee under appropriate district rules, shall not exceed two hundred dollars (\$200), unless a larger award is expressly approved by the governing board.

When an awards program is established in a school district under the provisions of this section, the governing board shall budget funds for this purpose but may authorize awards from funds under its control whether or not budgeted funds have been provided or the funds budgeted are exhausted.

44016. Whenever any person is requested by a school district to travel to the headquarters of such district for the purpose of being interviewed and examined prior to possible employment, the district may reimburse such candidate for expenses necessarily incurred in traveling from his place of residence to the place of interview or examination.

44017. Notwithstanding any provision of law to the contrary, a school district may, from funds under its jurisdiction, pay the surviving spouse of any employee who is murdered while in the course of his employment the amount that the deceased would have received if he had lived to complete the time remaining in his contract with the district.

This section shall be applicable to the surviving spouse of any such employee who was murdered during or after the 1973-74 school year.

## Article 2. Rights and Duties

44030. Any principal, teacher, employee, or school officer of any elementary or secondary school who refuses or willfully neglects to make such reports as are required by law is guilty of a misdemeanor and is punishable by a fine of not more than one hundred dollars (\$100).

44031. Materials in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

Such material is not to include ratings, reports, or records which (1) were obtained prior to the employment of the person involved, (2) were prepared by identifiable examination committee members, or (3) were obtained in connection with a promotional examination.

Every employee shall have the right to inspect such materials upon request, provided that the request is made at a time when such person is not actually required to render services to the employing district.

Information of a derogatory nature, except material mentioned in

the second paragraph of this section, shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter, and have attached to any such derogatory statement, his own comments thereon. Such review shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction.

44032. The governing board of any school district shall provide for the payment of the actual and necessary expenses, including traveling expenses, of any employee of the district incurred in the course of performing services for the district, whether within or outside the district, under the direction of the governing board. The board may authorize an advance of funds to cover such necessary expense. Such advance shall be repaid or adjusted upon filing of a regular claim for the actual and necessary expenses incurred. The governing board may direct any employee of the district to attend any convention or conference or to visit schools for the discussion or observation of any school matter appertaining to the duties of the employee or any question of interest to the school district.

In implementing this section, a governing board of any school district may, by rule or regulation, delegate to the district superintendent the authority to perform all powers described in this section; provided, that funds expended pursuant to such delegation shall not exceed the amount previously budgeted for such purposes by the governing board.

44033. The governing board of any school district may provide for the reimbursement of employees of the district for the use of automobiles owned by the employees and used in the performance of regularly assigned duties, by establishing an allowance for such use on a mileage or monthly basis.

44034. Neither any local legislative body nor any school district governing board shall enact or enforce any ordinance or promulgate or enforce any rule or regulation which limits, during their off-duty hours, the participation of school employees in political activities not prohibited by this code.

44035. Every permanent employee of a school district which becomes in its entirety a part of a unified school district, and every permanent employee of a school district employed in a school located in a portion of a district which becomes a part of a unified school district, where the whole of the district does not become a part of a unified school district, shall become a permanent employee of the unified school district.

44036. (a) The governing board of a school district may grant leaves of absence to employees to appear as a witness in court other than as a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee.

(b) The governing board of a school district may grant leaves of absence to employees, in positions requiring certification

qualifications, regularly called for jury duty in the manner provided for by law.

(c) The governing board may grant such leaves of absence with pay up to the amount of the difference between the employee's regular earnings and any amount he receives for jury or witness fees.

44037. The governing board of any district shall grant leave of absence to any employee, serving in a position not requiring certification qualifications, regularly called for jury duty in the manner provided for by law. The governing board shall grant such leave with pay up to the amount of the difference between the employee's regular earnings and any amount he receives as juror's fees.

It is unlawful for the governing board or personnel commission of any school district to adopt or maintain any rule, regulation, or policy which has as its purpose or effect a tendency to encourage employees to seek exemption from jury duty, or to directly or by indirection solicit or suggest to any employee that he seek exemption from jury duty, or to discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of such employee's service on any jury panel.

The board or personnel commission may, however, provide by rule that only a percentage of its staff, which percentage shall not be less than 2 percent, shall be granted such leave, with pay, at any one time.

Nothing in the foregoing provisions shall preclude the district superintendent or his agent from discussing with the affected employee the practicality of seeking exemption when acceptance would tend to materially disrupt the district's operations.

44038. The governing board of any school district may use school district funds for cash deposits, when required to guarantee payment for transportation purchased on credit for school district employees or other representatives who are directed by the governing board to travel on school district business.

44039. The governing board of any school district may use school district funds for cash deposits, when required to guarantee payment for health plans purchased on credit for school district employees.

44040. It shall be unlawful for any person authorized to invoke disciplinary action against any employee of a school district or employee in the office of the county superintendent of schools either in his individual capacity or as a member of any board, to invoke or attempt to invoke disciplinary action against any such employee or to discriminate against such employee in the terms, conditions and privileges of employment solely because of the employee's appearance before the governing board of a school district, the county board of education, legislative committees, or any other duly constituted governmental board, commission or council, whether such appearance was undertaken voluntarily or otherwise.

Violation of the provisions of this section shall be a misdemeanor.

44041. The governing board of each school district when drawing

an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes: participating in a deferred compensation program offered by the school district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the Constitution, or paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of the employee or his dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner, or paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the provisions of Chapter 11A of Part 2 of Division 2 of the Insurance Code, or paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his dependents, issued by a nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or paying periodic charges on any legal services contract for the benefit of the employee, or his dependents issued by a nonprofit membership corporation lawfully operating under Section 9200 or 9201.2 of the Corporations Code. The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit membership corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his authorization for the deduction up to one month in advance of the effective date of coverage.

“Group insurance” as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the school district or an employee organization but it shall, nevertheless, include annuity programs authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

44042. School districts may, but shall not be required to, provide payroll deduction for the collection of insurance premiums except as expressly authorized by Section 44041.

44043. Any school employee of a school district who is absent because of injury or illness which arose out of and in the course of the person's employment, and for which the person is receiving

temporary disability benefits under the workers' compensation laws of this state, shall not be entitled to receive wages or salary from the district which, when added to the temporary disability benefits, will exceed a full day's wages or salary.

During such periods of temporary disability so long as the employee has available for the employee's use sick leave, vacation, compensating time off or other paid leave of absence, the district shall require that temporary disability checks be endorsed payable to the district. The district shall then cause the employee to receive the person's normal wage or salary less appropriate deductions including but not limited to employee retirement contributions.

When sick leave, vacation, compensating time off or other available paid leave is used in conjunction with temporary disability benefits derived from workers' compensation, as provided in this section, it shall be reduced only in that amount necessary to provide a full day's wage or salary when added to the temporary disability benefits.

44044. Notwithstanding the provisions of Sections 44043, 44984 and 45192, a school district may waive the requirement that temporary disability checks be endorsed payable to the district, and may in lieu thereof, permit the employee to retain his temporary disability check, providing that notice be given to the district that such check has been delivered to the employee. In such cases, the district shall then cause the employee to receive his normal wage or salary less appropriate deductions, including, but not limited to, employee retirement contributions, and an amount equivalent to the face amount of the temporary disability check, which the employee has been permitted to retain. In all cases, employee benefits are to be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments.

Nothing contained herein shall be deemed to in any way diminish those rights and benefits which are granted to a school employee pursuant to the provisions of Sections 44043, 44984 and 45192.

44045. Whenever, as a result of any school district unification proceeding all of the territory under the jurisdiction of the county superintendent of schools is included in a single unified school district and the maintenance of any schools or classes or the performance of any other function theretofore under the jurisdiction of the county superintendent of schools is assumed by such unified school district, the inclusion shall, with respect to any employee, whether in a position requiring certification qualifications or in a position not requiring certification qualifications, who was theretofore employed by the county superintendent of schools in connection with such school, class, or function, be deemed to be the inclusion of a school district in the unified district. The rights of such an employee to employment with the unified district shall be governed by the laws defining the rights of employees of a predecessor school district included within a unified school district

to continue in employment as employees of the including unified school district.

44046. (a) The governing board of a small school district, which does not employ persons charged with school-community duties of counseling students and parents or guardians in their homes, may contract with any qualified social service agency or organization to secure the services, on a part-time or full-time basis, of qualified social workers as counselors in schools and in the homes of pupils. The State Board of Education shall adopt rules and regulations for the implementation of this section, but such social workers shall not be required to hold credentials or certification documents otherwise required under this code for service in the public schools.

(b) Social workers authorized to serve under this section, as well as credentialed school social workers in districts other than small school districts, may perform, but are not limited to, the performance of the following service to children, parents, school personnel, and community agencies:

(1) Group and individual counseling and casework with parents and children relating to learning and adjustment problems of children, including parent education.

(2) Liaison with community resources offering services to schoolchildren and their families.

(3) Consultation with parents and others in crisis situations, such as truancy, drug abuse, suicide threats, assaults, and child abuse.

(4) Assessment of social and behavioral disabilities affecting learning, including but not limited to case study evaluation, recommendations for remediation or placement, and periodic reevaluation.

(5) Participation in and coordination of staff development programs for professional, paraprofessional, and classified school staff and supervision of pupil personnel services workers.

(6) Coordination of social service and mental health components of children's centers and other early childhood development programs in the public schools.

(7) Consultation and collaboration with school personnel to promote a school environment responsive to the needs of children and the planning of educational programs which will prepare children to function in a culturally diversified society.

(c) As used in this section "small school district" means any of the following school districts:

(1) A unified school district having an average daily attendance of less than 1,501.

(2) A high school district having an average daily attendance of less than 301.

(3) An elementary school district having an average daily attendance of less than 901.

44047. Prior to implementing in any school of the district classes on Saturday or Sunday, or both, the governing board of a school district shall consult in good faith in an effort to reach agreement

with the certificated and classified employees of the school, with the parents of pupils who would be affected by the change, and with the community at large. Such consultation shall include at least one public hearing for which the board has given adequate notice to the employees and to the parents of pupils affected.

44048. A classified school employee currently employed by any school district or a county superintendent of schools which decides to maintain classes on Saturday or Sunday, or both, shall not, without his or her written consent, be required to change his or her workweek to include Saturday or Sunday, or both. No such classified employee shall be assigned to perform services on a Saturday or Sunday if such classified employee objects in writing that such assignment would conflict with his or her religious beliefs or practices. Enactment of this section shall cause no change or disruption in existing work schedules which may already include Saturday or Sunday as regular workdays.

This section shall not be construed as limiting the power of any governing board of a school district, or a county superintendent of schools, to govern the schools of the district, including the assignment of classified employees employed by such district or county superintendent of schools.

This section shall not be construed as modifying or otherwise affecting in any way the provisions of Sections 45127, 45128, or 45131, or any other provisions of this code relating to employment of classified employees.

### Article 3. Interchange Between Certificated and Classified Positions

44060. The purpose of this article is to provide a basis of determination as to what constitutes a supervisory or administrative classified position or a position requiring certification qualifications not clearly defined in other sections of this code; to provide an interchange of qualified personnel between the certificated and classified services of the public school systems; and to secure rights and benefits to employees moving between the two services, all to the end of assuring better educational systems for the students of the public school systems.

The provisions of this article are not intended, nor may they be construed, to invalidate any other sections of this code which were enacted prior to the enactment of this article, relating to positions requiring certification qualifications or the classified service covered in Article 6 (commencing with Section 45240) of Chapter 5 of this part, unless specifically provided herein. This article shall where appropriate apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of Chapter 5 of this part.

44061. If a person employed by the county superintendent of schools in a position requiring certification qualifications is assigned

to a position under the same superintendent not requiring certification qualifications, the employee shall retain all sickness and injury, sabbatical leave, and other rights and benefits. All seniority and tenure rights accumulated by him at the time of assignment to the position not requiring certification qualifications shall be secured to him for a period of 39 months from the time of acceptance of the classified position. His return to certificated service at any time within the 39 months shall be treated as if there had not been an interruption in his certificated service.

44062. If a person employed by the county superintendent of schools in a position not requiring certification qualifications is assigned to a position under the same superintendent requiring certification qualifications, the employee shall retain all sick leave, vacation, and other rights and benefits accumulated by him at the time of assignment to the position requiring certification qualifications. All seniority and permanency rights shall be secured to such an employee for a period of 39 months from the date of his acceptance of the certificated position. Such an employee shall be eligible to return to and assume the duties of his prior classified position at any time during the 39 months and his return shall be treated as if there had not been an interruption in his classified service.

44063. If an employee of a school district, including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5 of this part, employed in a position requiring certification qualifications is assigned to a position in the classified service of the same district, the employee shall retain all sickness and injury, sabbatical leave, and other rights and benefits. All seniority and tenure rights accumulated by him at the time of assignment to the position in the classified service shall be secured to him for a period of 39 months from the time of acceptance of the classified position. His return to certificated service at any time within the 39 months shall be treated as if there had not been an interruption in his certificated service.

44064. If an employee of a school district, including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5 of this part, employed in a position in the classified service is assigned to a position in the same district requiring certification qualifications, the employee shall retain all sick leave, vacation, and other rights and benefits accumulated by him at the time he is assigned to a position requiring certification qualifications. All seniority and permanency rights shall be secured to such an employee for a period of 39 months and his return shall be treated as if there had not been an interruption in his classified service.

44065. (a) Any person employed on or after July 1, 1963, by a school district, including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5 of this part, or by a county superintendent of schools, in a position

in which 50 percent or more of his duties performed during the school year, whether performed in a particular school or district or countywide, consist of rendering service in directing, coordinating, supervising or administering any portion or all of the types of functions listed below in this section shall hold a valid teaching or service credential as appropriate, whichever is designated in regulations adopted by the Commission for Teacher Preparation and Licensing, authorizing the particular service.

The types of functions are:

(1) The work of instructors and the instructional program for pupils.

(2) Educational or vocational counseling, guidance and placement services.

(3) School extracurricular activities related to, and an outgrowth of, the instructional and guidance program of the school.

(4) Planning courses of study to be used in the public schools of the state.

(5) The selection, collection, preparation, classification or demonstration of instructional materials of any course of study for use in the development of the instructional program in the schools of the state.

(6) The examination, selection, in-service training, or assignment of teachers, principals or other certificated personnel involved in the instructional program.

(7) Research connected with the evaluation and efficiency of the instructional program.

(8) The school health program.

(9) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

(10) The school library services.

(11) The preparation and distribution of instructional materials.

(12) The in-service training of certificated personnel.

(13) The interpretation and evaluation of the school instructional program.

(b) Any person who was employed by a district or by a county superintendent of schools before July 1, 1963, to perform any of the services designated by the Commission for Teacher Preparation and Licensing to require a supervision or administration credential, may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed to perform the same services in that county superintendent's office or in that district in which he was employed on that date, or is continuously employed to perform the same services in a district which results from a reorganization involving the same district.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

44065 (a) Any person employed on or after July 1, 1963, by a school district,

including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5 of this part, or by a county superintendent of schools, in a position in which 50 percent or more of his duties performed during the school year, whether performed in a particular school or district or countywide, consist of rendering service in directing, coordinating, supervising or administering any portion or all of the types of functions listed below in this section shall hold a valid teaching or service credential as appropriate, whichever is designed in regulations adopted by the Commission for Teacher Preparation and Licensing, authorizing the particular service.

The types of functions are:

- (1) The work of instructors and the instructional program for pupils
  - (2) Educational or vocational counseling, guidance and placement services
  - (3) School extracurricular activities related to, and an outgrowth of, the instructional and guidance program of the school
  - (4) Planning courses of study to be used in the public schools of the state
  - (5) The selection, collection, preparation, classification or demonstration of instructional materials of any course of study for use in the development of the instructional program in the schools of the state
  - (6) The examination, selection, in-service training, or assignment of teachers, principals or other certificated personnel involved in the instructional program.
  - (7) Research connected with the evaluation and efficiency of the instructional program.
  - (8) The school health program.
  - (9) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.
  - (10) The school library services.
  - (11) The preparation and distribution of instructional materials
  - (12) The in-service training of certificated personnel.
  - (13) The interpretation and evaluation of the school instructional program.
- (b) Any person who was employed by a district or by a county superintendent of schools before July 1, 1963, to perform any of the services designated by the Commission for Teacher Preparation and Licensing to require a supervision or administration credential, may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed to perform the same services in that county superintendent's office or in that district in which he was employed on that date, or is continuously employed to perform the same services in a district which results from a reorganization involving the same district.

**44066.** No governing board of any school district or a county board of education or a county superintendent of schools or other appointing authority shall require a credential or specify certification qualifications, per se, as a prerequisite for employment in any position under its jurisdiction which does not, by statute, require credentials or certification qualifications.

**44067.** Any person who, on September 15, 1961, is serving in a position for which a credential was issued or certification qualifications required pursuant to Section 44286 prior to the repeal of such sections, shall be deemed to be an employee in a position requiring such credential or certification qualifications for as long as he holds such position after September 15, 1961.

**44068.** Any person who, on June 30, 1965, was serving in a position requiring certification qualifications pursuant to the provisions of subdivisions (m), (n) and (o) of Section 44065 in effect immediately prior to the effective date of this section, shall be deemed to be an employee in a position requiring certification qualifications for as

long as he holds such position after the effective date of this section and such position shall be deemed to be a certificated position for as long as such person holds such position.

44069. (a) Any person who, on September 17, 1965, was serving in a position as business manager and had been assigned a title listed in Section 35028 shall be deemed to be an employee in a position requiring certification qualifications for so long as he holds such position in the same district.

(b) Any person who, on March 4, 1972, was serving in a position of business manager and that position had been declared, by the governing board, to be one requiring certification qualifications in accordance with the authority extended in this section prior to March 4, 1972, shall be deemed to be an employee in a position requiring certification qualifications for so long as he holds such position in the same district.

(c) Except as provided in subdivision (d), on and after March 4, 1972, no person employed in a position of business manager shall be required to be credentialed and no title assignment, work, duty statement or other device, including but not limited to educational or other requirements of applicants, which may be established by the governing board, may be construed to require certification qualifications for any such position or reasonably related position.

(d) The governing board of any school district with less than 3,000 units of average daily attendance in the prior fiscal year may require any person employed in a position of business manager to be credentialed.

## CHAPTER 2. TEACHER PREPARATION AND LICENSING LAW OF 1970

### Article 1. General Provisions

44200. This chapter shall be known and may be cited as the "Teacher Preparation and Licensing Law of 1970" or the "Ryan Act."

44201. The Legislature, recognizing the need for excellence in education and the variety and vitality of California's many educational resources, intends to set broad minimum standards and guidelines for teacher preparation and licensing to encourage both high standards and diversity. The Legislature intends that within the framework of state control school districts and teacher preparation institutions will develop programs which realistically meet the needs and resources of pupils, teacher candidates, school districts, and teacher preparation institutions.

The Legislature finds that highly complex, detailed, and prescriptive regulations governing the preparation and licensing of teachers and administrators frustrate imagination, innovation, and responsiveness. In addition, the Legislature finds that the diversity of functions served by modern education require licensing regulations which are flexible, realistic, responsive, and simple.

44202. It is the intent of the Legislature that the Commission for Teacher Preparation and Licensing shall exercise authority over all services provided to pupils in grade 12 or below. It is not the intent of the Legislature to authorize the commission to issue credentials authorizing service in grades 13 and 14, or in any institution of higher education.

44203. As used in this chapter:

(a) "Commission" means the Commission for Teacher Preparation and Licensing.

(b) "Approved institution" means any institution approved by the commission.

(c) "Subject matter examination" means any objective examination approved by the commission as an instrument to measure subject matter knowledge. Successful passage of a subject matter examination or its waiver shall be mandatory for any intern or any applicant for a teaching credential.

(d) "Professional preparation" means either (1) at least nine semester units of professional education courses and one semester of approved full-time student teaching or its equivalent under the supervision of an approved college or university, or (2) an approved internship program of at least one year.

(e) "Fifth year" means a full academic year, or its equivalent, taken at an approved college or university after completion of a baccalaureate program. Institutions of higher education and public schools may be authorized to attest to a teacher's completion of this requirement. Minimum requirements for teaching credentials shall not include more than the equivalent of one-fifth of a five-year program in, or one year of, professional preparation of which at least one-half will be in student teaching.

(f) "In-service training" means any program of teacher education or preparation offered jointly by a school district and an approved college or university for the purposes of improving or upgrading a teacher's skills, knowledge, or instructional methods which is offered for credit and is approved by the commission.

(g) "Authorization" means the designation appearing on the teaching or service credential identifying the areas of instruction or service which the credential holder is permitted to perform.

(h) "Any grades" and "all grades" means grade 12 or below.

(i) "Rules, regulations, and determinations" means every rule, regulation, order, standard, or determination of general application or the amendment, supplement, or revision of any such rule, regulation, order, standard, or determination adopted by the commission to implement, interpret, or make specific the law enforced and administered by the commission.

## Article 2. Commission for Teacher Preparation and Licensing

44210. There is hereby established in the state government the Commission for Teacher Preparation and Licensing, to consist of members appointed by the Governor with the advice and consent of the Senate. The commission shall consist of six persons employed as certified personnel in public elementary and secondary schools in California, at least four of whom shall be full-time classroom teachers, one of whom shall hold a services credential with a specialization in administrative services, and one of whom shall hold a services credential with a specialization in pupil personnel services; four faculty members of accredited public or private colleges or universities in California, at least three of whom shall be engaged in full-time teaching, and no more than one of whom shall represent any one discipline; two school board members; and three private citizens.

With the exception of the three private citizens, the appointment of a member shall terminate if he is no longer a certified employee in a public elementary or secondary school, or a faculty member of an accredited public or private college or university, or a school district governing board member, as may be the case, in California.

Not more than one member of the commission is to be appointed from the same school district or college or university campus.

44211. Representatives of statewide organizations may submit for the Governor's consideration the names of distinguished individuals to serve on the commission.

44212. The Superintendent of Public Instruction, the Regents of the University of California, the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission shall each appoint a representative to serve as member *ex officio* without vote.

44213. Of the 15 members appointed by the Governor who are first appointed, three shall be appointed for terms of one year, four shall be appointed for terms of two years, four shall be appointed for terms of three years, and four shall be appointed for terms of four years. Upon the expiration of the term of office of an appointive member of the commission, his successor shall be appointed for a term of four years. No person shall be appointed by the Governor to serve more than two full terms. Prior service on the commission for a term of less than three years resulting from an initial appointment or an appointment for the remainder of an unexpired term shall not be counted as a full term.

44214. If a member is absent from any four regularly scheduled meetings in any calendar year, his office as a member of the commission shall be deemed vacant. The chairman of the commission shall forthwith notify the Governor that such vacancy exists.

44215. The members of the commission shall serve without

compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties.

44216. Whenever an employee of any public school district, state college, or other public agency is appointed to membership on the commission, his employer shall grant him sufficient time away from his regular duties, without loss of income or other benefits to which he is entitled by reason of his employment, to attend meetings of the commission and to attend to the duties imposed upon him by reason of his membership on the commission. The employer of any such member may make available such stenographic, secretarial, and staff assistance as is reasonably necessary to enable him to execute the duties imposed upon him by reason of his membership on the commission.

44217. The compensation of the members of the commission who are public employees shall not be reduced by the agency or body by which they are regularly employed for any absence from service occasioned by attendance upon the business of the commission, its committees or subcommittees.

Each school district which employs a member of the commission and which is required to employ a person to replace such member during his attendance at meetings of the commission or any committee or subcommittee thereof, shall be reimbursed from the Teacher Credentials Fund for the cost incurred by employing a replacement.

44218. The commission by majority vote of all its members shall elect its own chairman from among its members.

44219. The commission shall meet each month except that the chairman, with the approval of the commission, may omit meetings in July and August and the chairman may call additional meetings at other times.

44220. The commission shall appoint an executive secretary, who shall be exempt from the provisions of the State Civil Service Act, and may in its discretion remove him by a majority vote of all its members. He shall be the secretary to the commission and its chief executive officer. He shall receive such salary as the commission may determine, and, subject to appropriation, such other perquisites as the commission may determine.

44221. The commission may employ such personnel as may be necessary to carry out its duties and responsibilities. The staff of the commission shall be subject to the relevant system and procedures of the state civil service. The provisions of the State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code shall apply to such personnel.

All such persons, other than temporary employees, serving in the state civil service and engaged in the performance of a function transferred to the Commission for Teacher Preparation and Licensing or engaged in the administration of a law, the administration of which is transferred to the commission, shall remain in the state civil service and may request transfer to the

commission or remain with the Department of Education on the effective date of this section. The status, position, and rights of any such person shall not be affected by his transfer and shall continue to be retained by him pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position that is exempt from civil service.

44222. The Department of Education shall assist the commission in any manner the commission may request in implementing this chapter; provided that the department shall be reimbursed from the Teacher Credentials Fund for any expenses incurred in assisting the commission or the Committee of Credentials.

44223. The executive secretary, subject to such additional conditions as the commission may establish, may purchase annuity contracts for permanent employees of the commission and shall reduce the salary of an employee for whom such contract is purchased by the amount of the cost thereof provided that all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 and Section 17512 of the Revenue and Taxation Code;

(b) The employee makes application to the executive secretary for such purchase and reduction of salary; and

(c) All provisions of the Insurance Code and the Government Code applicable to the purchase of such annuities are satisfied.

44225. The duties of the commission shall be to implement this chapter, to establish and promulgate standards and procedures for certifying educational personnel as qualified for a license to practice in the public schools of California, and to support, facilitate, and delineate functions and programs of preparation for the teaching profession.

The commission, consistent with the terms and provisions of this article, shall have the following powers and duties:

(a) To develop standards and procedures for the certification of educational personnel.

(b) To promulgate appropriate rules and regulations.

(c) To issue credentials upon certification to the State Board of Education.

(d) To provide leadership and to coordinate resources for the improvement of teacher education.

(e) To establish advisory committees consisting of representatives from various elements of the teaching profession related to each subject specialization which will help formulate performance standards for general teaching and other educational specialties.

(f) To develop and recommend to the Legislature for its approval alternative ways in which to demonstrate qualifications for licensing which are adapted to individual differences in candidates, preparing institutions, and performance requirements, while at the same time protecting against incompetence.

(g) To develop objective, independently verifiable standards of

measurement and evaluation of teaching competence as it relates to teacher licensing.

(h) To develop new or employ existing objective examinations as a measure of subject matter knowledge for the purpose of certifying educational personnel.

(i) To develop objective standards for the identification of specialist teachers.

(j) To monitor and evaluate the results of its action as it relates to the performance of teachers licensed under this article.

(k) To develop and recommend to the Legislature for its consideration, any necessary or desirable legislation to require the continuing education of certified personnel and the issuance of life credentials.

44226. It is the intent of the Legislature that the commission develop rules and regulations of uniform and general applicability and not engage in the prescription of courses and prescriptive unit counting. It is the intention of the Legislature that the commission consider for approval for credential purposes accredited baccalaureate degree granting institutions, programs of professional education and clinical experience, and general standards for the fifth year of preparation as defined in subdivision (e) of Section 44203.

44227. The commission may approve any institution of higher education whose teacher education program meets the standards prescribed by the commission, to recommend to the commission the issuance of credentials to persons who have successfully completed such programs.

44228. To assist in approving teacher education programs, the commission may appoint panels of educators, including public school classroom teachers, to serve as members of visiting teams to institutions and school districts having such programs. The provisions of Sections 44215, 44216, and 44217 shall be applicable to such panels of educators.

44229. The commission shall invite the public, the teaching profession, and interested professional groups and associations to appear before it and submit proposals for commission consideration and action.

44230. The commission shall regularly transmit a report of its findings, and regulations to the State Board of Education. It is the intention of the Legislature that the commission follow policies consistent with the board's general educational objectives for the state, and the commission shall be responsible for the detailed development and implementation of preparation and licensing regulations, subject to conformity with this article.

44231. Unless otherwise specified, the meetings of the commission shall be open and public and due notice of their time and place shall be posted.

44232. Notwithstanding any other provision of law to the contrary, any and all rules, regulations, and determinations of the commission shall be subject to review and approval by the State

Board of Education. Any and all such rules, regulations, and determinations shall take effect within 60 days of submission, or 75 days if submitted less than 10 days before the next regularly scheduled board meeting, unless stayed by action of the State Board of Education. Any and all rules, regulations, and determinations adopted by the commission and approved by the State Board of Education shall be amendments, deletions, and additions to those sections of Title 5 of the California Administrative Code dealing with the preparation and licensing requirements of California educational personnel for the implementation of this chapter.

44233. The commission shall continuously accumulate data about the number and kind of applicants for the various credentials, the issuance, denial, and revocation of the various credentials, patterns of application, issuance and nonissuance, and any other information deemed necessary and appropriate by the commission, the board, or the Legislature. Such data shall regularly be analyzed and evaluated and submitted to the State Board of Education for transmission to the Legislature in the form of an annual report not later than the fifth legislative day of each regular session of the Legislature.

44234. There is in the State Treasury the Teacher Credentials Fund. All fees levied and collected by the commission shall be deposited in the Teacher Credentials Fund, and are hereby continuously appropriated to support the activities and functions of the commission.

It is the intent of the Legislature that fees levied for the issuance of teachers' credentials shall be sufficient to offset the cost of all activities of the Commission for Teacher Preparation and Licensing, including the Committee of Credentials and any services provided by the Department of Education.

44235. Fees shall be levied by the commission for the issuance and renewal of teaching and related credentials. The fees shall be set by the commission in such a manner that revenues sufficient to support all activities and functions, including continuing research and evaluation activities, shall be produced. In no case shall a fee exceed twenty dollars (\$20) without express legislative approval.

44236. Any fee or excess amount of fee paid under Section 44235 may be refunded by the commission from the Teacher Credentials Fund when the applicant does not qualify for a credential or when such fee or excess is paid in error, and the amount of any such refund is hereby appropriated for the making of such refund.

### Article 3. Committee of Credentials

44240. The commission shall appoint a Committee of Credentials, consisting of seven persons for terms of two years. The committee shall include:

(a) Two members who shall be full-time certified classroom teachers in the public elementary schools, one with not less than five years' classroom experience, and one with not less than 10 years'

classroom experience.

(b) Two members who shall be full-time certified classroom teachers in the public secondary schools, one with not less than five years' classroom experience, and one with not less than 10 years' classroom experience.

(c) One member who shall be a certified administrative employee in the public schools.

(d) One member who shall be a past or present member of the governing board of any school district.

(e) One member who shall be a representative of the public, to be a person with no previous experience as a certified employee in the public schools or as a member of any governing board of a school district or county board of education.

44241. Sections 44215, 44216, 44217, 44218, 44220, and 44221 are applicable to the Committee of Credentials.

44242. The Committee of Credentials shall be under the direct supervision of the commission.

44243. The commission may assign to the Committee of Credentials such administrative duties as it may see fit relating to the granting, issuance, suspension, and revocation of credentials and life diplomas, and it shall supervise the work of the committee and shall provide statements of policy relative to committee operation and procedures as it deems appropriate to do so.

44244. At least 30 days prior to any Committee of Credentials meeting or hearing at which the application or credential of a certified employee is to be considered, the committee shall notify the certified employee of the specific allegations of misconduct for which the application or credential may be denied, suspended, or revoked in ordinary and concise language setting forth the acts or omissions charged and the statutes or rules violated. Supplemental allegations of misconduct shall be sent to the certified employee 30 days prior to such meeting or hearing. The portions of the investigation of the original or supplemental allegations which constitute the basis for such allegations shall be open to inspection and copying by such employee and his attorney. The statement of the allegations shall inform such employee that such allegations, if they are true, are sufficient to cause his application or credential to be denied, suspended, or revoked.

The committee shall order the investigation of allegations of misconduct to be discontinued if a meeting or hearing on such allegations is not commenced within one year of the date of notification of the original allegations to such employee. An extension for one six-month period may be made by the chairman of the commission upon the submission to the committee of a statement of the cause or causes for such extension.

The decision of the committee shall be in writing and a copy of such decision shall be delivered to the certified employee personally or sent to him by registered mail within 30 days after the meeting or hearing together with specific information relative to any

administrative hearing to which such employee is entitled.

44245. All meetings and hearings of the commission and Committee of Credentials to consider the suspension or revocation of credentials shall be executive and closed sessions with only commission members, committee members, staff members, the certified employee whose application or credential is in issue, the counsel of such employee, and any material witnesses in attendance.

44246. When a hearing is held to deny, suspend, or revoke a credential, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commission shall have all the powers granted therein.

44247. Any applicant for the renewal certification document who is denied a renewal by the Committee of Credentials may request a reevaluation of his application by the commission.

44248. Any member of the commission, commission staff member, member or staff member of the Committee of Credentials, or Department of Education employee who releases or gives out information received at a commission or committee meeting or hearing or through the investigation of a certified employee without authorization of the commission or committee is guilty of a misdemeanor.

#### Article 4. Credential Types

44250. The commission shall issue only the following two types of credentials, with authorizations as hereinafter defined:

- (a) A teaching credential.
- (b) A services credential.

44251. The period for which a credential, as authorized under Section 44250, is valid shall be as follows:

- (a) For an internship credential: two years.
- (b) For a preliminary credential, pending completion of the fifth year of study: five years.
- (c) For a life credential: the life of the holder.
- (d) For an emergency credential: one year or as the commission may determine.

44252. The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

44253. The commission may issue an internship or a preliminary credential to an applicant, pending completion of any examination requirement by the applicant within the time limit, not to exceed one year, set by the commission.

44254. Emergency credentials may be issued in accordance with regulations adopted by the commission.

The terms, reasons, and justification for the issuance of such credentials shall be regularly reported to the Legislature, as well as their number, kind, and other pertinent information. Emergency credentials shall only be authorized when insufficient certified

teachers are available.

An emergency credential may not be issued unless the holder has completed at least 90 semester units of college work.

Emergency credentials for pupil personnel services shall not be valid for the purpose of determining pupil eligibility for placement in special education classes or programs.

With the exception of this chapter, any reference in any law or regulation to a "provisional credential" shall be deemed to mean an "emergency credential."

44255. No life credential shall be issued until all requirements for the credential have been met and the candidate has taught for two years in California public schools.

44256. Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence including but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialties as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education.

44257. Governing boards may determine the authorization of a teaching assignment as defined in Section 44256. The commission may prepare appropriate forms and data collection instruments to monitor the implementation of this section, to routinely audit, sample, or otherwise verify conformity in assignment practices within the provisions of this chapter.

44258. A teacher who is authorized for single subject instruction may be assigned, with his consent, to teach any subject in his authorized fields at any grade level; preschool; kindergarten and grades 1 to 12, inclusive; or in classes organized primarily for adults, and similarly, a teacher authorized for multiple subject instruction may be assigned, with his consent, to teach in any self-contained classroom; preschool; kindergarten and grades 1 to 12, inclusive; or in classes organized primarily for adults; and similarly, a teacher authorized as a specialist teacher may be assigned, with his consent, to teach in his area of specialization at any grade level; preschool; kindergarten and grades 1 to 12, inclusive; or in classes organized primarily for adults.

44259. The minimum requirements for the teaching credential, except designated subjects, are:

(a) A baccalaureate degree or higher degree, except in professional education, from an approved institution.

(b) A fifth year of study to be completed within five years from the date of issuance of the preliminary credential.

(c) An approved program of professional preparation.

(d) Passage of a subject matter examination or its waiver as specified in this chapter.

(e) Demonstration of a knowledge of the various methods of teaching reading, to a level deemed adequate by the commission, by successful completion of a program of study approved by the commission or passage of a commission-approved reading examination. This subdivision does not apply to any candidate for a single subject instruction credential who holds a degree in industrial arts, physical education, music, art, or home economics.

44260. The minimum requirements for the designated subjects teaching credential shall be adequate, successful, and recent experience in the technical skill, trade or vocation named on the credential with a minimum equivalent to five years experience; a program of personalized in-service training to provide preparation as approved by the commission; and possession of a high school diploma or the passage of an equivalency examination as designated by the commission. If in the judgment of the commission an examination in the subject to be taught is necessary or desirable, such an examination may also be required.

This credential shall authorize the holder to teach in such subject or trade at such grade level approved by the commission and designated on the credential.

44261. The minimum requirements for the teaching credential also include the satisfactory completion of a unit requirement in health education, including, but not limited to, emphasis on the physiological and sociological effects of abuse of alcohol, narcotics, and drugs and of the use of tobacco.

44262. Upon the recommendation of the governing board of a school district, the commission may issue an eminence credential to any person who has achieved eminence in a field of endeavor commonly taught or service practiced in the public schools of California. This credential shall authorize teaching or the performance of services in the public schools in the subject or subject area or service and at the level or levels approved by the commission as designated on the credential.

Each credential so issued shall be issued for a one-year period and may be renewed for one-year periods by the commission upon the request of the governing board of the school district. Upon three renewals the holder of an eminence credential shall be eligible for a life credential, which may be issued by the commission.

44263. Until June 30, 1975, a teacher licensed pursuant to the provisions of this article may be assigned, with his consent, to teach

any single subject class in which he has 18 semester hours of coursework or nine semester hours of upper division or graduate coursework or a multiple subject class if he holds at least 60 semester hours equally distributed among the four areas of a diversified major set forth in Section 44314. A three-semester-unit variance in any of the required four areas may be allowed. The governing board of the school district by resolution shall provide specific authorization for such assignment. The authorization of the governing board shall remain valid for one year and may be renewed annually.

44264. Notwithstanding any other provision of law, a person holding a credential issued under the laws and regulations in effect on or before December 31, 1971, authorizing teaching in grades 7 to 12, inclusive, in the secondary schools may be assigned, with his consent, to teach grade 6 in a school composed of grades 6, 7, and 8.

44265. The minimum requirements for specialist instruction credentials are:

- (a) A valid teaching credential; and
- (b) Such specialized and professional preparation as the commission may require and is required by other provisions of this code.

In adopting the necessary rules and regulations, the commission shall emphasize appropriate professional specialized preparation at both the undergraduate and postgraduate level; and supervised participation or student teaching, or equivalent experience in the public schools or institutions; or private schools or institutions of equivalent status.

Specialist instruction includes, but is not limited to, those specialties requiring advanced preparation or special competence, as enumerated:

- (a) Early childhood education,
- (b) Reading specialist,
- (c) Mathematics specialist, and
- (d) Specialists in special education, which may include teachers of the mentally retarded, educationally handicapped, physically retarded, and specialists in the teaching of pupils with speech and hearing disorders.

Preparation programs which result in concurrent issuance of a specialist credential and a teaching credential may be approved by the commission.

44266. The minimum requirements for the services credential with a specialization in pupil personnel services are either both (a) and (b), or (c) and (d):

- (a) A baccalaureate degree or higher degree, except in professional education, from an approved institution; a fifth year of study to be completed within five years of the first employment of the certified employee; and such specialized and professional preparation as the commission may require, including completion of a commission-approved program of supervised field experience which includes direct classroom contact, jointly sponsored by a

school district and a college or university.

(b) Passage of an examination selected and interpreted by the commission, or its approved waiver, as set forth in Sections 44287 and 44317.

(c) Possession of a valid license, certificate, or registration, appropriate to the service to be rendered issued by the California agency authorized by law to license, certificate, or register persons to practice that service in California.

(d) One year's experience in a commission-approved program of supervised fieldwork. This requirement may be waived if the commission finds that previous fieldwork is of such a nature as to adequately prepare the applicant for service in the schools.

Preparation programs that result in concurrent issuance of a services credential with a specialization in pupil personnel services and a teaching credential may be approved by the commission.

The services credential with a specialization in pupil personnel services shall authorize the holder to perform, at all grade levels, the pupil personnel service approved by the commission as designated on the credential, which may include, but need not be limited to, counseling, psychological, child welfare and attendance services, and school social work.

**44267.** The minimum requirements for a services credential with a specialization in health are:

(a) Five years, or its equivalent, of college or university education, or five years of professional preparation approved by the commission.

(b) Possession of a valid license, certificate, or registration, appropriate to the health service to be designated, issued by the California agency authorized by law to license, certificate, or register persons to practice that health service in California.

(c) Such additional requirements as may be prescribed by the commission.

The services credential with a specialization in health shall authorize the holder to perform, at all grade levels, the health service approved by the commission as designated on the credential. Services as an audiometrist, occupational therapist, or physical therapist are not deemed health services within the meaning of this section.

**44268.** The minimum requirements for a services credential in a specialization in clinical or rehabilitative services are:

(a) A baccalaureate degree or higher degree from an institution approved by the commission.

(b) A fifth year, or its equivalent, of college or university education.

(c) Such specialized and professional preparation as the commission may require.

The services credential with a specialization in clinical or rehabilitative services shall authorize the holder to perform, at all grade levels, the service approved by the commission as designated

on the credential. Clinical or rehabilitative services which may be designated by the commission include, but need not be limited to, speech, language, and hearing services.

44269. The commission may issue a services credential authorizing service as a librarian upon completion of specialized preparation as required by the commission.

The standards for such credentials are a baccalaureate degree or higher degree from an institution approved by the commission, a valid teaching credential, a fifth year or its equivalent in college or university education to be completed within five years of the first employment under this credential, and such specialized and professional preparation as the commission may require.

44270. The minimum requirements for the services credential with a specialization in administrative services are all of the following:

(a) The possession of a valid teaching credential issued under the law and rules and regulations in effect on or before December 31, 1971, requiring the possession of a baccalaureate degree, or as specified in Section 44259, or a services credential with a specialization in pupil personnel services as specified in Section 44266.

(b) A minimum of three years of successful, full-time classroom teaching experience in the public schools, or in private schools of equivalent status or three years of experience in the field of pupil personnel services.

(c) A program of specialized and professional preparation in administrative services approved by the commission or one year internship in a commission-approved program of supervised in-service training in administrative services or an examination in administrative services.

The services credential with a specialization in administrative services shall authorize the holder to serve as a superintendent, associate superintendent, deputy superintendent, principal, assistant principal, supervisor, consultant, coordinator, or in an equivalent or intermediate level administration position.

Any person who administers a pupil personnel program shall hold a services credential with a pupil personnel or administrative specialization.

44271. The designated subjects teaching credential with a specialization in vocational trade and technical teaching shall authorize the holder, who also meets the requirements for administrative service, to supervise and administer programs of trade and technical education in school districts or in schools where the curricula are predominately trade, technical, or industrial in nature.

44272. The commission may issue limited services credentials authorizing administrative service in schools which are not part of the public school system but which are administered by other state agencies.

44273. Notwithstanding any other provisions of this code, any credential described in Section 44250 shall be issued to an applicant under the following circumstances:

(a) The commission has accepted, upon application of an approved institution supported by detailed data and justification, a program developed and offered by that institution as an experimental, exploratory, or pilot program of preparation for such a credential. The commission shall accept only those programs which it finds, by resolution entered in its minutes, to have merit and the potential of improving the quality of service authorized by the credential.

(b) The applicant has completed such a program following the date of its acceptance by the commission.

(c) The applicant holds upon completion of the credential program a baccalaureate or higher degree from an approved institution.

(d) The applicant meets all of the requirements of this chapter and the regulations of the commission adopted pursuant thereto, respecting age, character, citizenship, health, identification, oath or affirmation, and study of or examination in the Constitution of the United States.

44274. The commission shall issue, upon direct application by a qualified applicant, any credential specified in Section 44265 and such other specialist instruction credentials as the commission may establish, except that special education specialist credentials issued under the provisions of this section shall only be those which authorize teaching in programs for the learning handicapped or the severely handicapped, as both are defined in Section 56352, to an applicant who possesses a valid regular California teaching credential and who is, in the judgment of the commission, qualified to receive the credential. The credential issued under the terms of this section shall be a "full," "clear," or "professional" credential. Determination of qualification shall be limited to either (a) or (a) and (b):

(a) Specialized training: Twenty-four semester units, or equivalent credit, of specialized training in the field for which the credential is to be issued shall be required. Such training may include training in a related field or fields. The commission shall establish guidelines to determine what constitutes qualifying training and what are related fields. Qualifications for specialist in special education credentials authorizing teaching in programs for learning handicapped or severely handicapped pupils, as both are defined in Section 56352, shall include, but need not be limited to, training in (1) learning disabilities, (2) perceptual-motor training, and (3) language development. Such training shall have commenced on or after the beginning of the school year 1964-65 and been completed on or before September 15, 1977, and shall have been undertaken in a California institution accredited by the State Board of Education, or approved by the commission. If the applicant received training,

within the same time limits, in an out-of-state institution, credit for such training shall apply only if, at the time the training was taken, the institution was accredited by the appropriate regional accrediting body and accredited or approved by the certification agency of the state in which the institution is located. The commission shall allow up to six semester units credit for experience, pursuant to subdivision (b), in lieu of coursework.

(b) Experience in actual practice of the specialization in the public schools. Such experience shall have commenced on or after September 1, 1970. Such experience need not have been full time in the specialization, but shall demonstrate the applicant's ability to function in the specialization, as shown by continued employment in public schools in a position or in positions which utilize the skills of the credential field or related fields.

(c) Application for credentials pursuant to this section shall be made by September 15, 1977.

#### Article 5. Examinations

44280. The adequacy of subject matter preparation and the basis for assignment of certified personnel shall be determined by the successful passage of a subject matter examination as certified by the commission, except as specifically waived as set forth in Article 6 (commencing with Section 44310) of this chapter.

44281. The commission shall select, administer, and interpret subject matter examinations, which shall be a prerequisite for assignment to assure minimum levels of subject matter knowledge by all certified personnel regardless of the pattern and place of preparation.

44282. Subject matter examinations authorizing single-subject instruction shall be required for all subjects taught in California public schools, such subjects to be subsumed, as directed by the commission, under the following categories: English, physical science, life science, mathematics, social science, history, government, industrial arts, physical education, business, music, art, home economics, agriculture, and languages, including, but not limited to, French, Spanish, Russian, German, and Chinese. The commission shall list subject matter categories.

A general subject matter examination authorizing teaching multiple subjects shall include an examination of the candidate's knowledge of the following areas: English, social science, fine arts, general science, and mathematics.

44283. The adequacy and relevancy of the categories established under Section 44282 shall be regularly assessed and reported to the Legislature and necessary and appropriate changes in legislation may be requested by the commission from time to time.

44284. Examinations authorizing advanced or specialist teaching service may be authorized by the commission. Such examinations shall conform to the guidelines established by this chapter.

44285. The reading requirement as set forth in Section 44259 may be satisfied by the completion of a commission-approved program of study, not to exceed four semester units or its equivalent, or passage of a commission-approved reading examination.

44287. An examination appropriate for pupil personnel activities is the required examination for the services credential with a specialization in pupil personnel services as set forth in Section 44266, except that the examination requirement may be waived for those applicants who have completed a commission-approved program in pupil personnel services.

44288. The commission shall create subject matter advisory panels to advise in the selection, administration, and interpretation of examinations. The subject matter advisory panels shall consist of recognized leaders in the subject matter fields to be examined and shall be composed primarily of full-time public school classroom teachers, and full-time college or university classroom teachers.

Experts and authorities in the field of examination design, interpretation, and analysis may be included in the subject matter panels or may be separately employed by the commission.

Members of the examination panels shall serve without compensation, but may be reimbursed for actual and necessary expenses.

The approved examinations shall provide for flexibility and variety in patterns of subject matter preparation.

44289. The commission shall set passing scores with the objective of assuring an adequate level of subject matter preparation.

The examination shall report at least relative and absolute scores to facilitate comparison and interpretation, if practicable.

The individual candidate's score on any examination shall be a matter of record, but shall not be posted on the front of the credential or be made available to the public; the teaching or other credential shall identify by name those examinations successfully passed.

Nothing in this section shall be construed to prohibit research, evaluation, analysis, or interpretation of test scores so long as individual confidentiality is maintained.

44290. The commission, before the adoption of any examination, shall provide an opportunity to the public and teaching profession to present their viewpoints with respect thereto in open hearings.

44291. The approved examinations shall be instruments whose purpose is to measure achievement and shall be used solely to measure objective knowledge of subject matter.

44292. Insofar as is reasonable and practicable, the commission shall adopt examinations which are nationally administered on a regular basis.

44293. In selecting subject matter examinations, the commission shall consider the importance of timely and expeditious processing and the desirability and convenience of machine scoring.

44294. The commission may approve more than one examination

with passing scores appropriate to each examination for any of the categories to be examined as required by this chapter.

44295. In the selection, adoption and interpretation of examinations, the commission shall analyze and account for any cultural, class, or social bias which may arbitrarily and unfairly work to the disadvantage of any group of examinees, and shall assess and report upon the extent to which, if any, the passing score may adversely affect any group of prospective or actual examinees due to social, cultural, or ethnic factors.

44296. The commission may collect various data, including the ethnic background of examinees, age, sex, the college or university attended, degrees held, teaching experience, and other factors which may pertain, in the judgment of the commission, to examination performance.

44297. No limit may be placed on the number of times an examinee may take the approved examinations.

44298. Fees charged for the examinations shall be sufficient to furnish the full cost of the examination system, except as these funds may be augmented from designated appropriations by the Legislature from the Teacher Credentials Fund.

#### Article 6. Examination Waivers

44310. The commission shall waive the subject matter examination requirement for graduates of accredited public and private institutions of higher education who successfully complete subject matter programs specified by the commission.

Eligibility for an examination waiver can only be achieved when the subject matter program is one which is listed by the commission under Section 44282, and the program has been successfully completed in an approved institution of higher learning.

The commission may require that the approved examination be taken by candidates, who are otherwise eligible for an examination waiver, for informational purposes only.

44311. The commission shall evaluate any subject matter program offered by an accredited institution in satisfaction of subdivision (d) of Section 44259 to determine if it is substantially the same as one of the subject matter categories covered by the examinations.

44312. A finding by the commission of the inadequacy or inappropriateness of such program as the basis for waiving the subject matter examination shall cause persons completing such programs to be ineligible for the examination waiver.

44313. The subject matter examination authorizing multiple subject classroom instruction may be waived for holders of approved "diversified" or "liberal arts" degrees, or programs or their equivalent, conferred by accredited institutions of higher education approved by the commission.

Notwithstanding the designation of the degrees conferred, the

commission shall approve the programs presented by such institution and shall not engage in the detailed analysis of the applicant's transcripts for purposes of issuing the credential. The commission, however, may provide for the selected analysis of transcripts to determine whether the programs presented by such institutions conform with the requirements of the commission.

44314. A "diversified" or "liberal arts" degree is any degree, or program included within a degree, conferred by an institution approved by the commission. It shall consist of 84 semester hours, or equivalent quarter units, equally distributed among the following four areas:

1. English, including grammar, literature, composition, and speech.

2. Mathematics and the physical or life sciences.

3. Social sciences, other than education and education methodology.

4. Humanities and the fine arts, including foreign languages.

In implementing the provisions of this section, the commission may provide for a three-semester-unit variance in any of the four areas required.

44315. Notwithstanding any provisions of law or administrative regulations, a California state university or college may approve a "diversified" or a "liberal arts" degree, provided that all coursework used to meet such requirements is provided in the several academic schools or departments, other than the school or department of education or educational methodology, of the institution.

44316. The general subject matter knowledge examination defined in Section 44282 as required for the services credential with a specialization in administrative services may be waived for applicants who meet the "diversified" degree requirements as provided in Section 44314.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

44316. The general subject matter knowledge examination defined in Section 44282 as required for the services credential with a specialization in administrative services may be waived for applicants who meet the "diversified" degree requirements as provided in section.

44317. The examination required for the services credential with a specialization in pupil personnel services may be waived for applicants who have completed a commission-approved program in pupil personnel services.

## Article 7. Professional Preparation

44320. Professional preparation, including student teaching, shall be made available in the upper division course offerings at all California public institutions of higher learning. No more than nine semester units or equivalent units of professional education courses may be designated prerequisites for purposes of admission to student

teaching, except that in the case of candidates who elect to satisfy the reading requirement as set forth in subdivision (e) of Section 44259 by an approved program of study rather than by an approved examination may be required to take 12 semester units, or the equivalent, as prerequisites to student teaching.

Prior to admission to any professional preparation program approved by the commission, a potential candidate for a credential may obtain a certificate of clearance from the commission which shall be issued when the commission has verified the candidate's personal identification and health status. The fee for the certificate of clearance shall not exceed one-half of the regular fee for a credential and shall be deducted from the fee for the initial credential applied for by the certificate holder.

44321. Student internship programs shall be joint projects of school districts and teacher preparation institutions, and such internship programs shall be submitted to the commission for approval. Approved internship programs shall be subject to periodic review by the commission.

Upon completion of an approved internship program, with district and teacher preparation institution certification, the commission shall approve the teacher intern.

44322. Notwithstanding any other provision of this code, the professional preparation requirements for a teaching credential may be met by certification by the Director of the Peace Corps of the United States that the applicant has satisfactorily completed not less than 18 months in a Peace Corps assignment in a foreign country, during which time 50 percent or more of his duties consisted of classroom teaching of resident children of the foreign country.

An applicant meeting the requirements of this section shall not be required to complete any education or methodology courses or meet any other requirement relating to professional preparation as set forth in subdivision (c) of Section 44259.

44323. Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals and routinely report its findings.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate and graduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.

## Article 8. Certificates and Credentials

44330. Except where such service is provided by a school district pursuant to Section 44332.5, each county or city and county board of

education may provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the county superintendent of schools of such county or city and county or of a school district under the jurisdiction of such county superintendent of schools. Such registration shall authorize the service of the holder as an employee of the county superintendent of schools or of any school district under his jurisdiction in the capacity in which and for the period of time for which the certification or other document is valid.

44331. County boards of education may renew any certificate legally issued by them prior to October 1, 1945, and now in force; provided, that no certificate granted upon a credential issued by the State Board of Education or commission for a limited period shall be renewed or extended unless the credential upon which it was issued has been renewed or extended, and then only for the period of the renewal or extension of the credential.

44332. Except where such service is provided by a school district authorized to register certification documents pursuant to Section 44332.5, each county or city and county board of education may issue temporary certificates for the purpose of authorizing salary payments to certified employees whose credential applications are being processed or to personnel employed in children's centers or other preschool educational programs whose permit applications are being processed. The applicant for such a temporary certificate shall make a statement under oath that he has duly filed his application for a credential or permit together with the required fee and that to the best of his knowledge no reason exists why he should not be issued a certificate or permit. Such certificate or permit shall be valid for not more than 120 schooldays, and only until the credential or permit originally requested is either issued or denied by the commission.

44332.5. A school district which may issue warrants pursuant to Section 42647 may, at its discretion, provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the school district.

44333. The standard for the exchange credential shall be as prescribed by the commission pursuant to Section 44853.

This credential shall authorize service in a position requiring certification qualifications as an exchange certified employee for performance of the services specified in the credential. Services for which a license is required by the Business and Professions Code may not be authorized unless the applicant holds such a license.

44334. Except as provided in this code, no certification document shall be granted to any person unless and until he has subscribed to the following oath or affirmation: "I solemnly swear (or affirm) that I will support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United

States and the State of California." The oath or affirmation shall be subscribed and certified or declared, pursuant to Section 2015.5 of the Code of Civil Procedure, and shall be filed with the commission. Any certificated person who is a citizen or subject of any country other than the United States, and who is employed in any capacity in any of the public schools of the state shall, before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the state. Upon the violation of any of the terms of the oath or affirmation, the commission shall suspend or revoke the credential which has been issued.

44335. The issuance of any teaching credential requires (1) the passing of a satisfactory examination on the provisions and principles of the Constitution of the United States in a community college, college, or university of recognized merit or (2) the satisfactory completion of two semester units of work on the provisions and principles of the Constitution of the United States in any university or college from which undergraduate credits earned are accepted by the commission as meeting undergraduate credit requirements for credentials issued by the commission or in any publicly supported community college in the state. Public and private institutions in California may be authorized to attest to the individual's satisfaction of this requirement.

44336. When required by the commission, the application for a certification document or the renewal thereof shall be accompanied by a certificate in such form as shall be prescribed by the commission, from a physician and surgeon licensed under the provisions of the Business and Professions Code showing that the applicant is free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with children.

44337. No person otherwise qualified shall be denied the right to receive credentials from the commission, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school, on the grounds he is physically handicapped; nor shall any school district refuse to engage a teacher on such grounds, provided, that such physically handicapped teacher is able to carry out the duties of the position for which he applies in the school district. "Physically handicapped" as used in this section includes total or partial visual or hearing impairments, orthopedic impairments, and other physical impairments.

44338. No person otherwise qualified shall be denied the right to receive credentials issued by the commission, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school, on the ground he has physical deformities; provided, that such physical deformities do not constitute a health hazard to other persons with whom he may become associated.

44339. The commission shall adopt, in addition to any other regulations authorized by law, regulations requiring every applicant

for a credential, or for the renewal of a credential, to submit reasonable evidence of identification and good moral character.

44340. Each applicant for a credential, or for the renewal of a credential, shall submit with his application duplicate personal identification cards provided by the commission upon which shall appear the legible fingerprints and a personal description of the applicant.

The commission is authorized to, and shall adopt such regulations as may in its judgment be necessary for the administration of this section.

44341. The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a credential or for the renewal of a credential from any agency or department of the state and for that purpose, any provision of law to the contrary notwithstanding:

(a) The State Bureau of Criminal Identification and Investigation shall furnish, upon application of the commission, all information pertaining to any applicant of whom there is a record in its office.

(b) Each state hospital under the jurisdiction of the State Department of Health shall furnish upon application of the commission and with the consent of the holder or applicant, all information and records pertaining to that holder or applicant of whom there is a record in its office.

The commission upon written request of any private school authority, shall release to that private school authority information and other data relative to the identification or fitness of any applicant for a teaching position in the private school so long as not otherwise prohibited by any other privileged communication statute.

44342. Teachers, principals, supervisors, school librarians, superintendents and assistant superintendents, and other certified personnel who are presently employed in public schools in California shall not be adversely affected by this chapter. However, presently employed personnel and those in preparation shall be permitted to seek initial or renewal certification under the terms of this chapter.

44343. A credential which was issued prior to July 1, 1973, shall remain in force as long as it is valid and continues to be valid under the law and regulations of the commission. The commission may not by regulation invalidate such valid credential unless it issues to the holder thereof, in substitution, a new credential authorized by other sections of this chapter which is no less restrictive than the credential for which it was substituted with respect to the kind of service which it authorizes, and the grades or classes of types of schools in which it authorizes services.

44344. (a) The commission shall issue the appropriate credentials authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971, to any person who completed the requirements for such credential prior to September 15, 1974.

(b) A person may be issued a credential under this section after

September 15, 1974, if that person, between December 31, 1971, and September 15, 1974:

(1) Was engaged in teaching in a foreign country, after such person had completed the requirements of such credential.

(2) Holds a credential issued under partial fulfillment and was working towards meeting the requirements of that credential and was enrolled in a teacher training institution.

(3) Was working towards meeting the requirements of such credential and was prevented from completing those requirements because of active military service, illness, or other causes determined by the commission.

(4) Was accepted into and enrolled in a teacher education curriculum at any institution and would be required to take more than 15 semester-hour units or the equivalent quarter-hour units after September 15, 1974, beyond the requirements necessary to receive such credential, in order to meet the requirements of credentials issued under this chapter.

(5) Was enrolled in a student-declared degree program at an accredited institution leading to such credential with at least a junior standing as determined by the institution and would be required to take more than 15 semester-hour units or the equivalent quarter-hour units after September 15, 1974, beyond the requirements necessary to receive such credential, in order to meet the requirements of credentials issued under this chapter.

(c) No credential authorized under this law and rules and regulations in effect on December 31, 1971, shall be issued to any person pursuant to the exceptions specified in paragraphs (1) to (5), inclusive, of subdivision (b) after September 15, 1976.

(d) For the purposes of this section, "teacher education curriculum" means any professional education course or sequence of professional education courses required for a credential authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971.

(e) For the purposes of this section, "student-declared degree program" means any student-elected degree objective at an approved institution selected for the purpose of obtaining a credential authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971.

44345. The commission may deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who:

(a) Lacks the qualifications which are prescribed by law or regulations adopted by the commission pursuant thereto.

(b) Is physically so disabled as to be rendered unfit to perform the duties authorized by the credential for which he applies.

(c) Is addicted to the use of intoxicating beverages to excess.

(d) Is addicted to the use of narcotics or habit-forming drugs.

(e) Has committed any act involving moral turpitude.

(f) Has had a certification document revoked.

(g) Has intentionally practiced or attempted to practice any material deception or fraud in his application.

(h) Fails or refuses to furnish reasonable evidence of identification or good moral character.

(i) Has been convicted of any offense defined in subdivision 1 of Section 314 of the Penal Code prior to September 7, 1955.

44346. The commission shall deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who comes within any of the following classes:

(a) Has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(b) Has been convicted of any sex offense as defined in Section 44010.

(c) Has been convicted of a narcotics offense as defined in Section 44011.

44347. The terms of credentials shall be as specified in this article.

44348. Except as otherwise specifically required in this chapter, the commission shall establish regulations pertaining to the expiration dates of initially issued and renewed credentials.

44349. Each credential issued by the commission shall clearly state the kind of service that it authorizes, the grades or classes, or the types of schools in which it authorizes service, and shall have such other content as the commission may prescribe or as may be prescribed by authority of the commission.

44350. Each credential issued shall contain its date of expiration and shall be issued on a form prescribed by the commission, and shall bear the signatures of the secretary and the chairman of the commission or their facsimile signatures.

44351. Whenever the date of expiration of any credential occurs while the person holding the credential is in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California or in the service of the United States Merchant Marine, or in the full-time paid service of the American Red Cross, during any national emergency declared by the President of the United States of America, or during a war in which the United States of America is engaged, or within six months after such person honorably leaves such service or has been placed on inactive duty, the credential is hereby continued in force until six months after such person honorably leaves such service or has been placed on inactive duty.

The holder of a credential so extended shall be entitled to a renewal of the credential prior to its date of expiration as herein fixed, subject to provisions of this code relating to the renewal of credentials.

44352. Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a credential that has been lost or destroyed, the commission shall issue to him a new credential of the same kind, grade, character, and tenure as that lost or destroyed.

For issuance of the new credential the commission shall require a fee to cover the cost of replacement not to exceed the fee for issuance of an original credential pursuant to Section 44235. The revenues from the fee provided for in this section shall not be available for expenditure until appropriated.

44353. Satisfactory proof shall consist of an affidavit by the person, giving the kind of the credential, the date of issue, if possible, and the basis upon which it was issued, together with such other information as the issuing authority may require.

44354. Any oath required of an applicant for a credential may be administered by any of the persons enumerated in Section 60, by such employees of the Department of Education as the Superintendent of Public Instruction may designate, and by such employee of the commission as the commission may designate.

### CHAPTER 3. CERTIFICATED EMPLOYEES

#### Article 1. Revocation and Suspension of Certification Documents

44420. Should any person employed by a school district in a position requiring certification qualifications refuse, without good cause, to fulfill a valid contract of employment with such district or leave the service of such district without the consent of the superintendent, if any, or the governing board, of such district except in the manner provided for by law, the Commission for Teacher Preparation and Licensing shall, after proof of such fact is made to it, suspend the credentials theretofore issued to him by the commission for not more than one year.

If the credentials issued to the person by the board or the commission have once been suspended pursuant to this section, the commission may, if such credentials again become subject to suspension under this section, suspend such credentials for not more than two years.

44421. The Commission for Teacher Preparation and Licensing shall revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause which would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

44422. Whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing is charged with immoral or unprofessional conduct or evident unfitness for service or persistent defiance of, and refusal to obey, the laws regulating the duties of his position, the commission

in its discretion after notifying the person charged of its intention to do so, may require the county board of education of the county in which he is serving or has last served to give notice of, and conduct, a hearing of the charges in the manner prescribed by law for the hearing of charges for the revocation or suspension of a certificate by a county board of education.

The county board of education, after the hearing, shall report to the commission its findings, and a summary of the evidence, and shall make a definite recommendation concerning the revocation or suspension of the credential.

Upon receipt of a copy of the findings, summary of evidence, and recommendation, the commission may suspend or revoke the credential for the causes stated, or order the charges dismissed.

44423. Whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing requests in writing that the credential held by him be revoked, the commission shall revoke such credential.

44424. Upon the becoming final of the conviction of the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing of a violation, or attempted violation, of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 232, both inclusive, 244, 245, 261 to 267, both inclusive, 273a, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to felony convictions, 503 and 504, or of Penal Code Section 272, the commission shall forthwith revoke the credential.

44425. Whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing has been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011, the commission shall forthwith suspend the credential. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the commission shall forthwith terminate the suspension of the credential. When the conviction becomes final or when imposition of sentence is suspended, the commission shall forthwith revoke the credential.

44426. Whenever the holder of any credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state, the commission shall forthwith suspend the credential. If the determination is reversed and the holder is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, the commission shall forthwith terminate the suspension of the credential. When the determination becomes final, the commission shall forthwith revoke the credential.

44427. County boards of education may revoke or suspend, for immoral or unprofessional conduct, evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of, teachers, the certificates granted by them.

44428. No certificate shall be revoked or suspended, except upon the written request of its holder, until after a hearing before the county board of education, and then only upon the affirmative vote of at least four members of the board.

44429. All charges of immoral or unprofessional conduct, of evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers, shall be presented to the board in writing and shall be verified under oath.

44430. Notice of the time of hearing and a full and complete copy of the charges shall be furnished to the accused at least 10 days before the hearing.

44431. The accused shall be given a fair and impartial hearing and shall have the right to be represented by counsel.

44432. The hearing shall be governed by and conducted under the rules of the board.

44433. If any teacher employed by a board of school trustees for a specified time, leaves the school before the expiration of the time, without the consent of the trustees, in writing, the teacher is guilty of unprofessional conduct, and the board of education of the county, upon receiving notice of the fact, may suspend the certificate of the teacher for the period of one year.

44434. Each city or city and county board of examination may for immoral and unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, recommend to the city or city and county board of education, the revocation of any certificate previously granted by the board of education in the city or city and county.

44435. Upon the becoming final of the conviction of the holder of a certificate issued by a county board of education of a violation or attempted violation of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 232, inclusive, 244, 245, 261 to 267, inclusive, 273a, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to grand theft, 503 and 504, or of Penal Code Section 272, the county board of education shall forthwith revoke the certificate.

(Amended by Stats 1976, Ch 1011.)

[ORIGINAL SECTION]

44435 Upon the becoming final of the conviction of the holder of a certificate issued by a county board of education of a violation or attempted violation of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194-232, both inclusive, 244, 245, 261 to 267, inclusive, 273a, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to grand theft, 503 and 504, or of Penal Code Section 272, the county board of education shall forthwith revoke the certificate

44436. Whenever the holder of a certificate issued by a county

board of education has been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011, the county board of education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the board shall forthwith terminate the suspension of the certificate. When the conviction becomes final or when imposition of sentence is suspended the board shall forthwith revoke the certificate.

44437. Whenever the holder of a certificate issued by a county board of education has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state, the county board of education shall forthwith suspend the certificate. If the determination is reversed and the holder is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, the board shall forthwith terminate the suspension of the certificate. When the determination becomes final, the board shall forthwith revoke the certificate.

### Article 3. Teacher Education Internship Act of 1967

44450. This article shall be known and may be cited as the Teacher Education Internship Act of 1967.

44451. The intent of the Legislature in enacting this article is to increase the effectiveness of teachers and other professional school service personnel in the public schools of California by placing theory and practice as closely together as possible in college and university programs for the preparation of teachers and professional school service personnel. The Teacher Education Internship Act of 1967 is enacted to encourage the development and maintenance of preparation programs that are realistic and practical in content and theory and are directly related to the individual functions and responsibilities practitioners in the public schools of California face. The desirability of joining theory and practice during the learning period has been demonstrated amply in teaching internship programs during the past several years both within and without the state.

44452. Any school district may, in cooperation with an approved college or university, establish a teacher education internship program as provided in Section 44321, and meeting the provisions of the statutes and of the regulations of the Commission for Teacher Preparation and Licensing.

44453. For admission to all teaching internship programs authorized by this article, an applicant shall have a baccalaureate or higher degree from an institution approved for credential purposes by the Commission for Teacher Preparation and Licensing at the time the degree was earned and shall pass a subject matter

examination, as defined in subdivision (c) of Section 44203.

44454. An internship credential authorizes the same service at the same levels as the regular standard credential authorizes.

44455. An internship credential shall be issued initially for a two-year period and may be renewed by the commission.

44456. Notwithstanding Section 44455, an internship credential may be renewed by the Commission for Teacher Preparation and Licensing if in its judgment an applicant is unable to complete renewal requirements because of illness or other circumstances judged to be extenuating and not within the control of the applicant.

44457. Prior to enrollment in any college or university preparation program to renew the internship credential, appropriate personnel in the employing school district shall counsel with the intern and a total program for the first and subsequent renewals shall be planned. The county superintendent of schools shall be involved in the program planning in the case of joint recommendations.

44458. The program shall meet the instructional or service needs of the district with the primary objective being to increase the effectiveness of the intern in the district. Both the district and the intern shall concur in the program planned.

44459. The full cooperation of colleges and universities is essential if teaching and service internship programs are to be successful. A school district establishing an internship program shall seek the cooperation of public and private colleges and universities, especially those within the geographic service area of the district for the establishment of courses and classes necessary for renewal.

44460. The intern shall have the right to attend any regionally accredited college or university of his choice for the completion of renewal requirements. The success of internship programs will lie in the development of integrated, well-organized, and sequential programs of study by cooperating colleges and universities. When appropriate and feasible, colleges and universities may provide offcampus programs of study for interns within the geographic area of their employing school districts.

44461. The supervisory help and guidance of interns as they pursue their school district responsibilities are important for the success of such programs. The utilization of competent and qualified college and university staff members for this purpose is encouraged. To help achieve this end, school districts, and county superintendents of schools in the case of joint recommendations, may enter into agreements with colleges and universities for the employment of staff for such supervision.

44462. Salary payments for supervision of interns may be made out of district funds and may be met by reducing proportionately the salaries paid interns. Under this authorization no more than eight interns may be supervised by one staff member and the normal district salary paid each intern may be reduced by as much as, but no more than, one-eighth to pay the salary of the supervisor. In no

event may an intern be paid less than the minimum salary required to be paid by the state to a regularly certificated teacher.

44463. An intern shall have the right to change school districts upon completion of a school contract year and become an intern in a new school district if recommended by the new school district. A new application recommending issuance of a new internship credential shall be submitted by the school district in behalf of the individual and the renewal procedures shall be followed.

44464. An internship credential shall be valid only as long as the holder is in good standing in the teacher internship program of the district that makes the request, notwithstanding any provision of Section 44463, and the rights provided by Sections 44948 and 44949 shall not be afforded to interns.

44465. A school district shall give special supervision and assistance to each intern above and beyond that given to other newly certificated and newly employed school personnel. A school district shall seek the assistance of the college or university in coordinating the program for the intern.

44466. Interns shall not acquire tenure while serving on an internship credential, but each year of service as an intern shall count toward the achievement of tenure.

44467. Colleges and universities may continue the development and maintenance of internship credential programs under their own auspices seeking the cooperation of school districts in their full implementation.

#### Article 4. Ryan Master Teacher Act

44490. It is the intent and purpose of the Legislature, by the provisions of this article, to encourage teachers employed in the public schools to attain excellence in their profession, and to provide them with incentives to that end in the form of both special recognition and material reward.

The Legislature has determined that in the education of our youth the role of the teacher is paramount, and that all other functions in school operation are secondary and supportive to the teacher's role. It has come to the attention of the Legislature that in recent years the departure from the classroom of eminently qualified teachers has occurred at an alarmingly accelerated pace, and that such persons have felt compelled to enter upon nonteaching careers in order to secure the personal recognition and material rewards which their ability as educators can command. The provisions of this article are directed, therefore, to the restoration of the teacher and the teaching profession, as such, to their rightful position of primary importance in the structure of the educational system.

This article applies only to school districts having an average daily attendance of over 100 in the fiscal year in which participation is sought.

This article shall be known and may be cited as the Ryan Master

Teacher Act.

44491. The Superintendent of Public Instruction shall establish a statewide master teacher selection program in the districts of the state. No application to participate in the program shall be submitted by the governing board of the school district to the superintendent until an election has been held by all certificated employees of the school district and conducted by the district superintendent. A 60-percent majority of those voting shall be necessary to indicate support of the program.

In any district with an average daily attendance of 400,000 or more, the governing board of the district may authorize elections to be conducted in areas based upon district organizational structure and any area which votes pursuant to this section to support a program shall be treated as a district for the purpose of this article.

School districts not qualified to receive state equalization aid allowances from the State School Fund participating in a program under this article shall fund 50 percent of the program.

44492. The Members of the Legislature appointed to the committee pursuant to Section 44491 shall meet with, and participate in, the work of the committee to the extent that such participation is not incompatible with their positions as Members of the Legislature. The Members of the Legislature appointed to the committee shall serve at the pleasure of the appointing power. For purposes of this article, such Members of the Legislature shall constitute a joint legislative committee on the subject of this article and shall have the powers and duties imposed upon such committee by the Joint Rules of the Senate and Assembly.

44493. There is a Master Teacher Review Board; composed of the Director of Finance, or his designee; the Legislative Analyst, or his designee; the Superintendent of Public Instruction, or his designee; the Chairman of the Assembly Ways and Means Committee; and the Chairman of the Senate Finance Committee.

The legislative members of the board shall meet with, and participate in, the work of the board to the extent that such activity is not incompatible with his position as Members of the Legislature.

If 25 percent or more of the teachers eligible to participate in the program pursuant to Section 44497, of a school district are designated as certified master teachers pursuant to this article, the Master Teacher Review Board shall review the selection process in such district to ascertain whether or not the district is complying with the provisions of this article. No stipend shall be paid to any teacher in such a district unless such payment is approved by the Master Teacher Review Board after a determination that the district is in substantial compliance in its selection procedures.

44494. A master teacher selection panel shall be established by the district superintendent in each participating school district. Each panel member shall serve for two years and be selected as follows:

(a) One member of the governing board of the school district, selected by the governing board.

(b) One administrator who is a superintendent or principal in the school district, selected by the governing board.

(c) In a unified school district, two elementary certificated employees of the school district who spend 80 percent of their teaching time in the classroom and who have submitted their own names in nomination, selected by the elementary certificated employees of the school district voting in a secret ballot election conducted by the district superintendent held not later than the 15th of October of the school year.

(d) In a unified school district, two secondary certificated employees of the school district who spend 80 percent of their teaching time in the classroom and who have submitted their own names in nomination, selected by the secondary certificated employees of the school district voting in a secret ballot election conducted by the district superintendent held not later than the 15th of October of the school year.

(e) In an elementary school district, four elementary certificated employees who spend 80 percent of their teaching time in the classroom and who have submitted their own names in nomination, selected by the elementary certificated employees of the school district voting in a secret ballot election conducted by the district superintendent held not later than the 15th of October of the school year.

(f) In a high school district, four secondary certificated employees who spend 80 percent of their teaching time in the classroom and who have submitted their own names in nomination, selected by the secondary certificated employees of the school district voting in a secret ballot election conducted by the district superintendent held not later than the 15th of October of the school year.

(g) Two public members who are not officers or employees of the school district, selected by the county superintendent of schools.

The chairman of the panel shall be selected by the members of the panel.

Any vacancies on the panel shall be filled by the appropriate appointing authority in the manner specified in this section.

44495. A master teacher selection panel may adopt reasonable rules and regulations for the implementation of this article.

44496. No master teacher selection panel or member of a master teacher selection panel may be held civilly liable by an applicant for any act or omission which occurs in the direct implementation of this article.

44497. The criteria for the selection of certified master teachers shall be established by the panel and shall require at least:

(a) A master's degree in an academic field or a bachelor's degree plus 45 semester units taken after the bachelor's degree, or the equivalent, to be determined by the master teacher selection panel, of a master's degree in vocational subjects for which master's degrees are not usually awarded, or successful completion of the competence examination prescribed in Chapter 557 of the Statutes of 1970;

(b) Eight years of total teaching experience, with four years of teaching experience in the district;

(c) That the teacher spend at least 80 percent of his teaching time in the classroom;

(d) The demonstration of distinctly superior teaching ability.

44498. The criteria for the selection of certified master teachers shall be published by the Superintendent of Public Instruction and shall be available free of charge to all certificated employees of the school districts designated to participate in this pilot program.

44499. Each master teacher selection panel shall receive applications, to be filed by March 1 of the school year, from public school teachers, submitted in the form prescribed by the panel and accompanied by a two-hundred-dollar (\$200) fee, requesting that the applicant be certified as a certified master teacher.

44500. The master teacher selection panel shall appoint for each applicant for a master certificate two certificated employees from a school district other than the participating school district and who spend at least four-fifths of their teaching time in a classroom, who shall inquire into the professional competence of the applicant. A third certificated employee may be appointed when a distinct difference of opinion exists between the evaluation of the two certificated employees. The appointed certificated employees may, if they are qualified, examine more than one applicant. The appointed certificated employees need not be residents of the county in which the participating school district is located. These appointed certificated employees shall be known as examiner teachers and shall be appointed by April 1 of the school year.

The examiner teachers shall sign affidavits stating that they have no specific knowledge of the applicant for certification as master teachers, either personally or professionally.

The examiner teachers shall, independently of each other, make individual written reports on the applicant's professional competence to the master teacher selection panel not later than June 1st of the school year.

The examiner teachers shall talk with other teachers in the school where the applicant is employed, other teachers in the school district, the principal of the school where the applicant is employed, and other administrators, parents, and students who may have specific knowledge of the applicant's professional qualities. The examiner teacher shall also consider evidence of relative gains made by pupils taught by the applicant, as measured by standardized tests.

Upon a favorable recommendation by the examiner teachers, the master teacher selection panel, by majority vote of those present and voting, shall issue a certificate designating the applicant as a certificated master teacher.

Each certified master teacher shall be reexamined every five years pursuant to this article.

The examiner teachers shall be reimbursed for travel in connection with such inquiry. Examiner teachers shall be granted

time off without loss of pay for not to exceed two schooldays during any school year for each applicant they examine. The employing school district shall be reimbursed by the county superintendent of schools for the salary of substitute teachers hired for the examiner teachers.

A separate fund shall be established for receiving application fees, to be used for the payment of examiner teachers and other related expenses. Any deficit in such a fund shall be made up by the allocation of moneys thereto from the State School Fund apportionments to the employing districts. The allocation, and the transfer of moneys to the fund, shall be made upon order of the county superintendent of schools.

44501. Any school district which employs a certified master teacher shall pay the teacher an additional stipend of four thousand dollars (\$4,000) per school year over and above the regular salary which would otherwise be paid to the teacher.

The Superintendent of Public Instruction shall order reimbursements to be made from funds transferred to the State School Fund in each fiscal year to each school district equal to the total of the stipends paid to certified master teachers pursuant to this section.

The Superintendent of Public Instruction shall proportionally reduce the amounts allowed pursuant to Section 41301, or any act which supersedes that section, by the amount allowed as reimbursements pursuant to this section.

The amount reimbursed in any fiscal year shall not exceed an amount equal to 150 percent of the amount reimbursed in the preceding fiscal year.

Any teacher who qualifies at any time during the school year shall be presumed to have been a master teacher for the entire year and shall be entitled to payment in the full stipend amount of four thousand dollars (\$4,000).

44502. The Department of Education, with the advice of the Department of Finance, shall prepare an annual estimate of the amount required for expenditure pursuant to this article.

The Department of Education shall keep an accounting of the number of school districts which are eligible to participate in the program.

Not more than 10 school districts may be admitted to participate in the program the first year. Thereafter, total number of districts admitted to participate in the program for the first time in any one fiscal year shall not exceed an amount equal to 30 percent of the number of participating districts in the preceding fiscal year.

44503. The governing board of any school district participating in the program may receive and expend funds from any other public or private agency for purposes of this article.

44504. The Legislative Analyst shall report on the implementation of the programs authorized by this article to the Legislature and the Master Teacher Review Board on or before

January 5 of 1973, 1974, 1975, 1976, and 1977.

### Article 5. New Careers Program

44520. It is the intent and purpose of the Legislature by enacting this chapter to make provisions for a New Careers Program to recruit and train persons who have completed at least 60 units of college work in a community college or a four-year institution of higher education for teaching in low-income elementary schools. It is the further intent and purpose of this chapter to provide a means by which capable persons of low-income background may enter the teaching profession. The New Careers Program is designed to provide practical teaching experience in schools with high concentrations of low-income families, as determined by the Director of Compensatory Education, concurrently with upper division academic and professional education.

44521. The University of California, the California State University and Colleges, or any private institution of higher education may participate in the program prescribed in this article.

44522. Any school district may enter into an agreement with the University of California, California State University and Colleges, or any private institution of higher education to participate in the New Careers Program prescribed in this article.

44523. The State Department of Education may enter into an agreement with a participating school district to provide training and to share administrative costs and salary support in the New Careers Program prescribed in this article.

A person selected to participate in the program prescribed in this article shall be known as an "intern."

44524. Any person who has completed at least 60 units of collegiate work and who has lived or worked extensively in areas of high concentrations of low-income families, or is a member of a minority racial or ethnic group who has lived and worked extensively in low-income areas, shall be eligible to be selected to participate in the program prescribed in this article. An intern shall be selected on the basis of high teaching potential and shall meet the personal qualifications for the issuance of a credential prescribed in Section 44258. The intern shall give reasonable evidence that he will teach for at least two years following the training program in a school in a low-income area.

Recruitment of interns for this program shall be primarily from two groups: (1) community college or lower division college students or other persons having completed 60 units of college work and (2) teacher aides already employed under Sections 44833, 54481, or 45360 to 45367, inclusive, and other programs providing training and teacher aide experience in the classroom setting.

44525. An intern shall be enrolled in at least a 6-week, but not more than a 12-week, preservice program at the participating university, campus of the California State University and Colleges, or

private institution of higher education.

44526. The participating university, state college, or private institution of higher education and school district shall jointly select the interns and team leaders to participate in the program prescribed in this article.

A team leader shall be an experienced teacher who has demonstrated capability in teaching educationally disadvantaged pupils and shall be directly responsible to direct, aid, coordinate, and supervise interns in their internship pursuant to this article in the participating school district.

44527. The team leader shall have at least 6 but not more than 10 interns under his supervision. The team leader and his interns shall assist in the teaching process in the participating school district.

44528. An intern shall enroll in a course of study at the participating university, campus of the California State University and Colleges, or private institution of higher education which will lead to a baccalaureate degree and a teaching credential.

44529. The team leader and his interns shall, in addition to teaching duties, be afforded time for a teacher education program to be carried out under the guidance of the team leader in cooperation with the participating university, campus of the California State University and Colleges, or private institution of higher education.

44530. The participating school district shall pay at least 10 percent, but not more than 90 percent, of the compensation to be paid the following participants in the New Careers Program:

(a) Team leaders, who shall receive compensation at a rate the equivalent to that paid other experienced teachers in the participating school district with similar professional preparation and responsibilities.

(b) Interns, who shall receive seventy-five dollars (\$75) a week, plus a fifteen dollars (\$15) a week dependents allowance for each dependent.

44531. The participating school district shall pay to the intern an amount equivalent to the tuition fees or college or university fees, or both, if levied, upon the intern attending the participating university, campus of the California State University and Colleges, or private institution of higher education.

44532. The Director of Compensatory Education shall, under the policy direction of the State Board of Education and the administrative direction of the Director of Education, provide administrative assistance with respect to the program prescribed in this article and shall adopt rules and regulations with respect thereto.

44533. The Department of Education shall reimburse school districts participating in the New Careers Program for the expenses incurred by the school district pursuant to Sections 44530 and 44531.

44534. The participating university, campus of the California State University and Colleges, and private institution of higher education shall fund its own costs involved in the program prescribed by this article.

## Article 6. Teacher Preparation

44560. On and after July 1, 1974, each school with a substantial population of students of diverse ethnic backgrounds shall provide an in-service preparation program designed to prepare teachers and other professional school service personnel to understand and effectively relate to the history, culture, and current problems of these students and their environment. For purposes of this article a school shall be considered to have a substantial population of students of diverse ethnic backgrounds where 25 percent or more of all the students in the school are of diverse ethnic backgrounds.

44561. The Department of Education shall develop a list of approved courses which shall be considered acceptable for meeting the requirements of this article. The department shall cause a list of approved courses to be published and distributed to interested teachers, administrators, and governing boards of school districts. The department shall be responsible for coordinating the efforts of school districts and colleges to develop adequate course offerings to satisfy the requirements of this article.

44562. In-service programs designed to fulfill the requirements of this article may include, but need not be limited to, courses offered by community colleges and colleges and universities approved by the State Board of Education. A district may provide an in-service program consisting in whole or in part of preparation other than college courses.

Such a program shall be developed cooperatively with the Department of Education and shall have prior approval of the Department of Education. An in-service program which meets the intent of this article shall encompass the history, culture, and current problems of the students of diverse ethnic background.

All college courses approved by the Department of Education for the purposes of this article shall be considered acceptable for salary credit purposes by any school district. District in-service programs shall specify an amount of equivalent credit which shall be acceptable for salary credit purposes in the school district providing the in-service program.

44563. The Department of Education shall provide in its budget for the necessary funds to employ appropriate staff to implement the intent of this article.

44564. The department shall continually evaluate the results of this article.

## Article 7. In-Service Training—Personnel, Secondary Education

44570. It is the intent of the Legislature to encourage California's institutions of higher education, whether public or private, to enter into cooperative arrangements with local school districts for the provision of training programs designed to improve high school teachers' instructional skills. The Legislature recognizes that the

usual teacher preparation required by law and provided by most teacher-training institutions—while meeting high quality standards—may not provide desirable exposure to the range of new and innovative teaching techniques being developed and tested by and in cooperation with major universities throughout the United States; nor does the usual preparation provide, even with practice teaching, on-the-job experience under the guidance of resource and consulting personnel involved in development of new techniques or of so-called master teachers chosen for their exceptional ability and supplementary research in the field.

The Legislature, therefore, intends, in enacting this article, to facilitate the process whereby institutions of higher education, research centers, or regional educational laboratories may provide resource personnel and special courses under contracts or other cooperative arrangements with local school districts.

44571. As used in this article, the term “staff development project,” means training programs established to improve high school teachers’ instructional skills pursuant to this article.

44572. Staff development projects shall be made available whenever possible to the following personnel:

(a) New high school teachers of the district who have not yet completed the fifth year of university or college education requirements for a standard teaching credential with a specialization in secondary teaching.

(b) New teachers of the district, whether from California or out of state, who may already have completed all requirements for a standard teaching credential with a specialization in secondary teaching.

(c) Teachers who may already be teaching in the district, including those who have, as well as those who have not, completed the fifth-year requirement for a standard teaching credential with a specialization in secondary teaching.

(d) High school counselors or visiting teachers.

(e) High school administrators.

44573. The governing board of any school district may establish a staff development project to improve high school teachers’ instructional skills pursuant to this article.

A staff development project may include, but not be limited to, the following components, as determined by the governing board:

(a) A statement of the school district’s objectives in establishing the project, specifying the school district’s particular needs with reference to specialized instructional personnel.

(b) A description of the component parts of the proposed staff development project, including:

(1) Courses to be made available to trainees through arrangements with an institution of higher education, research center, or regional education laboratory; and

(2) Other planned trainee activities.

(c) A statement outlining methods and criteria to be used in

selecting trainees for the project.

(d) A statement indicating generally the duration of the program and the number of hours per week each trainee would be involved in designated activities.

(e) A statement describing the manner in which the staff development project is to be evaluated upon termination of a unit of training.

(f) A statement of proposed expenditures and reasonably expected costs, and an outline of proposed federal or state and local fund matching arrangements.

44574. The governing board of any school district may contract with institutions of higher education, including the University of California, the California State University and Colleges, and private institutions, and with research centers or regional education laboratories, for such institutions, centers, or laboratories to furnish academic and consulting services for purposes of a staff development project. The school district shall be deemed the contracting agency and shall be responsible for coordination and administration of the staff development project.

44575. The school district shall provide the necessary facilities, equipment, and instructional materials for the project.

44576. Certificated employees participating as trainees in a staff development project shall be remunerated on a basis consistent with usual procedures of the school district.

44577. The school district shall pay, out of the funds of the school district, all costs of the project.

44578. Any institution of higher learning participating in a staff development project pursuant to this article shall grant academic credit for the courses established under terms of the contract arranged with respect to a staff development project. Such academic credit shall be granted on whatever hour or unit basis is the practice at the participating institution.

#### Article 8. In-Service Training—Personnel

44580. It is the intent of the Legislature to encourage California's institutions of higher education, whether public or private, to enter into cooperative arrangements with local school districts for the provision of training programs designed to improve elementary teachers' instructional skills. The Legislature recognizes that the usual teacher preparation required by law and provided by most teacher-training institutions—while meeting high quality standards—may not provide desirable exposure to the range of new and innovative teaching techniques being developed and tested by and in cooperation with major universities throughout the United States; nor does the usual preparation provide, even with practice teaching, on-the-job experience under the guidance of resource and consulting personnel involved in development of new techniques or of so-called master teachers chosen for their exceptional ability and

supplementary research in the field.

The Legislature, therefore, intends, in enacting this article, to facilitate the process whereby institutions of higher education, research centers, or regional educational laboratories may provide resource personnel and special courses under contracts or other cooperative arrangements with local school districts.

44581. As used in this article, the term "staff development project," means training programs established to improve elementary teachers' instructional skills pursuant to this article.

44582. Staff development projects shall be made available whenever possible to the following personnel:

(a) New elementary teachers of the district who have not yet completed the fifth year of university or college education requirements for a standard teaching credential with a specialization in elementary teaching;

(b) New teachers of the district, whether from California or out of state, who may already have completed all requirements for a standard teaching credential with a specialization in elementary teaching;

(c) Teachers who may already be teaching in the district, including those who have, as well as those who have not, completed the fifth year requirement for a standard teaching credential with a specialization in elementary teaching;

(d) Elementary school counselors or visiting teachers; and

(e) Elementary school administrators.

44583. The governing board of any school district desiring to establish a staff development project shall submit one or more project proposals to the State Department of Education for review and for final approval by the State Board of Education. No funds appropriated for purposes of this article shall be allocated to a school district for a staff development project until the State Board of Education approves of the project.

44584. A staff development project proposal shall include, but not be limited to, the following components, as well as any other components which the State Board of Education determines meet the needs and purposes of a staff development project:

(a) A statement of the school district's objectives in establishing the project, specifying the school district's particular needs with reference to specialized instructional personnel.

(b) A description of the component parts of the proposed staff development project, including:

(1) Courses to be made available to trainees through arrangements with an institution of higher education, research center, or regional education laboratory; and

(2) Other planned trainee activities.

(c) A statement outlining methods and criteria to be used in selecting trainees for the project.

(d) A statement indicating generally the duration of the program and the number of hours per week each trainee would be involved

in designated activities.

(e) A statement describing the manner in which the staff development project is to be evaluated upon termination of a unit of training.

(f) A statement of proposed expenditures and reasonably expected costs, and an outline of proposed federal or state and local fund matching arrangements.

44585. The governing board of any school district may contract with institutions of higher education, including the University of California, the California State University and Colleges, and private institutions, and with research centers or regional education laboratories, for such institutions, centers, or laboratories to furnish academic and consulting services for purposes of a staff development project. The school district shall be deemed the contracting agency and shall be responsible for coordination and administration of the staff development project.

44586. The school district shall bear 50 percent of the cost of a staff development project coordinator's salary, and shall provide the necessary facilities, equipment, and instructional materials for the project.

44587. Certificated employees participating as trainees in a staff development project shall be remunerated on a basis consistent with usual procedures of the school district.

44588. The Superintendent of Public Instruction shall allow, out of funds appropriated to the Department of Education for the purpose, to each school district an amount sufficient to pay the tuition costs and other fees necessary for trainees to take courses prescribed in the staff development project at the college or university level, and to pay the consultation costs of the project, and to pay 50 percent of the cost of the salary of the staff development project coordinator.

44589. Any institution of higher learning participating in a staff development project pursuant to this article shall grant academic credit for the courses established under terms of the contract arranged when a staff development project has been approved by the State Board of Education. Such academic credit shall be granted on whatever hour or unit basis is the practice at the participating institution.

44590. A staff development project submitted by a school district may be renewed, but it shall include any modifications recommended by the State Board of Education upon review of the school district's evaluation of the staff development project.

44591. The Department of Education shall, subject to the approval of the State Board of Education, establish rules and regulations for the administration of this article, including the use of any federal funds that may be available for purposes of this article.

## Article 9. Exchange and Recruitment

44610. This article shall be known as the "Foreign Language Teacher Exchange and Recruitment Law of 1963."

44611. The purposes of this article are to encourage and promote the temporary exchange of teachers between school districts in California and schools in foreign countries and to make available to California schools as teachers foreign-born persons and others who are especially qualified to provide instruction in one or more modern foreign languages in order that the schools of this state may comply with the requirement of the state law that foreign language instruction be given to pupils in grades six, seven, and eight as of July 1, 1965. It is the finding of the Legislature that California teachers will become more fluent in a foreign language and more knowledgeable about peoples of other countries and their environment by teaching service in a country where that language is used in daily life, and that it will be of substantial benefit to California pupils beginning the study of a foreign language to be instructed by teachers who are fluent in the language and conversant with the attendant culture and are therefore able to instill and reinforce the appropriate speech habits early in the learning experience of the pupil. It is the purpose of the Legislature to encourage and enable California schools to benefit from the language abilities of citizens of foreign countries who are now or in the future may be residents of this state.

44612. The State Board of Education shall adopt rules and regulations under which teachers employed by California school districts may exchange positions with teachers in schools in other countries for a period of one year or less. The arrangements for such exchanges shall be made through the Department of Education and in cooperation with the teacher exchange programs administered by agencies of the federal government. The first such exchanges shall take place during the 1964-1965 school year.

Grants from the federal government or any department or agency thereof may be accepted by the state and its agencies to be expended pursuant to the programs and plans enumerated in this article. The Department of Education shall administer the teacher exchange program provided for in this article and shall do all acts necessary to carry out the purposes of this article.

44613. Teachers employed by California school districts desiring to participate in an exchange of positions under this article shall file with the Department of Education an application setting forth a plan of study to be completed during the year of service in a foreign country and shall agree to teach in a California school district for a minimum of two years following the year of exchange service.

44614. The exchange of teachers with a foreign country under the provisions of this article shall be conditioned upon the fact that the employing school district in California shall not be required to pay the salary of the teacher from the foreign country. Teachers employed by California school districts shall, while serving as

teachers in a foreign country pursuant to this article, continue to receive from their employing school districts the full amounts of the regular salaries which would be payable to them if they were serving in the schools of the particular employing districts, and the district shall make all deductions provided by law for retirement purposes during such period.

The Department of Education may pay to the teachers from a foreign country employed by a school district in California under this article, part or all of the difference between the salary being paid them by their respective foreign employers and the salary being paid by the California school district to the particular teachers with whom they are exchanged, as the department shall determine to be appropriate in each instance; except that no such payment to a foreign teacher shall exceed three thousand dollars (\$3,000) in one school year nor shall such payments be made to more than 500 teachers from foreign countries in any one fiscal year.

The Department of Education may pay the travel expenses of teachers in the exchange program but such payments shall not be made to more than 500 California teachers and 500 teachers from foreign countries in any one fiscal year. Such payments shall be for the actual expense involved in travel to and from the exchange assignments or for one thousand dollars (\$1,000), whichever is the lesser amount.

The Commission for Teacher Preparation and Licensing shall establish minimum standards for credentials for such exchange teachers from a foreign country and shall provide for the issuance of such credentials to such teachers.

44615. The Commission for Teacher Preparation and Licensing shall adopt rules and regulations providing for the recruitment of, and issuance of special credentials in the teaching of a foreign language to foreign-born persons or others having native fluency in a modern foreign language to teach foreign languages in the public schools of California. The issuance of special credentials in the teaching of foreign languages pursuant to this section shall be limited to 500 persons a year. The commission shall prescribe the minimum standards for such special credentials and shall provide for the renewal of such credentials. In issuing the credentials to any applicant the commission shall take into consideration fluency in the language to be taught, academic preparation, previous teaching experience, a knowledge of modern methods of foreign language instruction and a knowledge of peoples of other countries and their environment. The commission shall adopt rules and regulations which require the holder of a special credential issued under this section to undertake, within a reasonable time, a course of study which will enable the holder to become eligible for a standard teaching credential.

44616. The Department of Education may contract with universities and colleges in this state approved by the Commission for Teacher Preparation and Licensing as a teacher education

institution for furnishing refresher courses in which applicants for a special credential in the teaching of a foreign language issued under Section 44615 who have not had previous recent teaching experience may secure instruction in the teaching of a foreign language that will enable them to meet the standards prescribed by the commission.

Instruction in the teaching of foreign languages pursuant to the provisions of this section shall be limited to 500 persons a year.

The Department of Education may pay to each person enrolled in such a refresher course a stipend of seventy-five dollars (\$75) a week for a total of six weeks or a stipend paid in some other manner but the total amount paid to an individual shall not exceed four hundred fifty dollars (\$450).

44617. Section 44854 applies to exchange teachers.

#### Article 10. Professional Development and Program Improvement Act of 1968

44630. This article may be cited as the Professional Development and Program Improvement Act of 1968.

44631. It is the intent of the Legislature that professional development and program improvement centers be established throughout the state to offer comprehensive in-service training programs to strengthen the instructional techniques of classroom teachers in kindergarten and grades 1 through 6, inclusive. It is also the intention of the Legislature that the professional development and program improvement centers shall emphasize the improvement of teaching and programs in reading and mathematics, improve the teacher's skills in diagnosing learning disabilities of pupils, and develop corrective programs of instruction. It is the further intention of the Legislature that the center include the principal and other school administrative personnel in the training program.

It is also the intention of the Legislature that in sparsely populated areas, involving long distances, in which the establishment of professional development and program improvement centers are not feasible, the in-service teacher training shall be provided under joint programs between school districts and county superintendents of schools to strengthen the instructional techniques of classroom teachers in kindergarten and grades 1 through 8.

It is the further intention of the Legislature that all district, state, and federal resources related to teacher training be integrated and coordinated with in-service training programs established by this article in order to improve the educational achievement of pupils enrolled in both categorical aid programs and regular instructional programs.

44632. As used in this article:

(a) "Center" means a professional development and program improvement center which is an elementary school designated as such upon application of a school district by the State Board of

Education. It is a school in which a program under either Title I of the Elementary and Secondary Education Act of 1965, the Miller-Unruh Basic Reading Act (Chapter 2 (commencing with Section 54100) of Part 29 of Division 4 of this title), the Educationally Disadvantaged Youth Programs (Chapter 1 (commencing with Section 54000) of Part 29 of Division 4 of this title), or the Early Childhood Education Program (Article 10 (commencing with Section 49530) of Chapter 9 of Part 27 of Division 4 of this title) is in operation.

(b) "Satellite school" means any other school or schools in the district designated as such by the district and approved by the State Board of Education. Satellite schools shall be named in accordance with the priority measures established by Section 44636.

(c) "Program" means a professional development and program improvement center program established pursuant to this article.

(d) "Joint program" shall mean a program undertaken through joint agreement by two or more school districts or county superintendents of schools joined together for the purpose of providing in-service training to administrators and teachers teaching kindergarten and grades 1 through 8.

44633. A school may be designated as a center when all of the following conditions are met:

(a) The director of the center, as appointed by the school district, has the concurrence of a cooperating teacher training institution.

(b) The master teachers at the center have been determined to be outstanding teachers by the school district and the cooperating institution of higher education.

(c) The center has at least the staff for auxiliary and administrative services that would be present in an adequately staffed school.

44634. Each school designated as a center shall employ a staff of teachers, administrative and auxiliary personnel, and teacher aides and may provide training for such staff which may serve as substitutes in the satellite school when the regular satellite school staff is released for in-service training.

44635. Any school district may apply to establish a center. The application shall be submitted to the State Board of Education and shall contain a detailed plan cooperatively developed with a teacher training institution and shall include all of the following:

(a) A description of the training program for all school personnel to be trained through the program, including administrative and auxiliary personnel and, if appropriate, replacement teachers.

(b) A description of the in-service program to be provided to the staff of satellite schools on a regular rotational basis until all staff members of the satellite schools have participated in the in-service training program. Staff of satellite schools shall include specialist teachers in reading and mathematics regularly employed with such schools, and administrative and auxiliary personnel, and teacher aides.

(c) A description of the procedure to be used for the identification of master teachers at the center based on demonstrated ability by the district in cooperation with the institution of higher education.

(d) A description of the program for followup training to be provided to personnel of satellite schools which have had training in the centers.

(e) A description of how all existing in-service training programs of the district funded from local, state, and federal sources will be integrated with the professional development and program improvement programs authorized by this article, including a specific statement of the local, state, and federal resources for district in-service training programs that will be utilized in the implementation of this program.

44636. Satellite schools shall be designated and approved as those schools which meet all of the following criteria:

(a) The schools which have the largest concentration of pupils whose reading or mathematics, or both, achievement scores fall below the first quartile, as measured by the latest administered standardized achievement test in reading or mathematics, or both.

(b) The schools which have designated one or more master teachers to act as resource teachers in reading and mathematics and to work with other teachers in the strengthening of instructional techniques and program improvements.

(c) The schools shall maintain a summer session and integrate their instructional programs with the in-service training program performed during the summer;

(d) The schools which have the largest concentration of teachers who will assure the district that they will continue to teach in the satellite schools for the second school year following their participation in the center program.

44637. A program proposed by a joint agreement may be considered when all the following conditions are met:

(a) The director of the program, as appointed by the joint agreement, has the concurrence of a cooperating teaching training institution.

(b) The professional staff proposed by the teacher training institution to work with the joint program has the concurrence of the school districts participating in the joint agreement.

(c) The master teachers or specialist teachers employed by the joint program have been determined to be outstanding teachers by the school district and the cooperating institution of higher education.

44638. The designated agent of any joint program may apply to establish a program of in-service and preservice training for classroom teachers in lieu of applying to establish a center pursuant to Section 44635. The application shall contain a detailed plan cooperatively developed with a teacher training institution and shall include all of the following:

(a) A description of the training program for all school personnel

to be trained through the program, including administrative and auxiliary personnel and, if appropriate, replacement teachers.

(b) A description of the in-service program to be provided the staff of satellite schools on a regular rotational basis until all staff members of the satellite schools have participated in the in-service training program. Staff of satellite schools shall include specialist teachers in reading and mathematics regularly employed with such schools, and administrative and auxiliary personnel, and teacher aides.

(c) A description of procedures to be used for the identification of master teachers at the center based on demonstrated ability by the district in cooperation with the institution of higher education.

(d) A description of the program for followup training to be provided to personnel of satellite schools which have had training in the centers.

(e) A description of how all existing in-service training programs of the district funded from local, state, and federal sources will be integrated with the professional development and program improvement programs authorized by this article, including a specific statement of the local, state, and federal resources for district in-service training programs that will be utilized in the implementation of this program.

(f) Assurance that joint programs shall be undertaken first in the schools of the participating districts which have (1) the largest concentration of pupils whose reading achievement scores fall in the first quartile, as measured by the most recently administered standardized achievement test in reading, (2) the largest concentration of pupils whose mathematic achievement scores fall in the first quartile as measured by the most recently administered standardized achievement test in mathematics, and (3) the largest concentration of teachers who will assure the district that they will continue to teach in the schools for the second school year following their participation in the program.

44639. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this article, including the establishment of minimum standards for in-service programs offered.

44640. The State Board of Education shall provide for the evaluation of improvement of teacher competence of teachers participating in the program. The board shall select or contract for the development of evaluation procedures and materials designed to measure the improvement of teaching competence as a result of participation in the program. The assessment procedures and materials shall be utilized to assess participating teachers before and after participation in the program.

44641. School districts which have established centers or joint programs shall report to the State Board of Education the scores of pupils in schools whose teachers and administrative personnel have participated in programs, and, in addition, shall report scores of

pupils in similar schools whose staff did not participate in programs. Reports shall also be made revealing the amount of progress each pupil in satellite schools made for each year of instruction by teachers receiving in-service training in the centers. The State Board of Education, on the basis of such reports, shall report annually to the Legislature the success of the program and shall make recommendations to improve the program.

44642. The State Board of Education shall establish procedures for allocating funds to support the preservice and in-service training programs authorized by this article.

44643. State grants made to school districts shall not exceed the amount approved in the project budget of the district. Allocation by the Superintendent of Public Instruction shall include such amount as may be necessary to (1) pay the salaries of replacement teachers, and (2) pay the salaries of instructors or prorate salaries of consultants for time of instruction in the project.

In no event shall allocations to school districts for the professional development program exceed one thousand two hundred dollars (\$1,200) per trainee.

#### Article 11. Evaluation and Assessment of Performance of Certificated Employees

44660. It is the intent of the Legislature that governing boards establish a uniform system of evaluation and assessment of the performance of all certificated personnel within each school district of the state, including schools conducted or maintained by county superintendents of education. The system shall involve the development and adoption by each school district of objective evaluation and assessment guidelines which may, at the discretion of the governing board, be uniform throughout the district or, for compelling reasons, be individually developed for territories or schools within the district, provided that all certificated personnel of the district shall be subject to a system of evaluation and assessment adopted pursuant to this article.

This article does not apply to certificated personnel who are employed on an hourly basis in adult education classes.

44661. In the development and adoption of guidelines and procedures pursuant to this article, the governing board shall avail itself of the advice of the certificated instructional personnel in the district's organization of certificated personnel; provided, however, that the development and adoption of guidelines pursuant to this article shall also be subject to the provisions of Article 1 (commencing with Section 7100) of Chapter 2 of Part 5 of Division 1 of Title 1.

44662. (a) The governing board of each school district shall establish standards of expected student achievement at each grade level in each area of study.

(b) The governing board of each school district shall evaluate and

assess certificated employee competency as it reasonably relates to (1) the progress of students toward the established standards, (2) the performance of those noninstructional duties and responsibilities, including supervisory and advisory duties, as may be prescribed by the board, and (3) the establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities.

(c) The governing board of each school district shall establish and define job responsibilities for those certificated noninstructional personnel, including, but not limited to, supervisory and administrative personnel, whose responsibilities cannot be evaluated appropriately under the provisions of subdivision (b), and shall evaluate and assess the competency of such noninstructional certificated employees as it reasonably relates to the fulfillment of those responsibilities.

(d) The evaluation and assessment of certificated employee competence pursuant to this section shall not include the use of publishers' norms established by standardized tests.

(e) Nothing in this section shall be construed as in any way limiting the authority of school district governing boards to develop and adopt additional evaluation and assessment guidelines or criteria.

44663. Evaluation and assessment made pursuant to this article shall be reduced to writing and a copy thereof shall be transmitted to the certificated employee not later than 60 days before the end of each school year in which the evaluation takes place. The certificated employee shall have the right to initiate a written reaction or response to the evaluation. Such response shall become a permanent attachment to the employee's personnel file. Before the end of the school year, a meeting shall be held between the certificated personnel and the evaluator to discuss the evaluation.

44664. Evaluation and assessment of the performance of each certificated employee shall be made on a continuing basis, at least once each school year for probationary personnel, and at least every other year for personnel with permanent status. The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the employee. In the event an employee is not performing his duties in a satisfactory manner according to the standards prescribed by the governing board, the employing authority shall notify the employee in writing of such fact and describe such unsatisfactory performance. The employing authority shall thereafter confer with the employee making specific recommendations as to areas of improvement in the employee's performance and endeavor to assist him in such performance.

Hourly and temporary hourly certificated employees, other than those employed in adult education classes who are excluded by the provisions of Section 44660, and substitute teachers may be excluded from the provisions of this section at the discretion of the governing board.

44665. For purposes of this article, "employing authority" means the superintendent of the school district in which the employee is employed, or his designee, or in the case of a district which has no superintendent, a school principal or other person designated by the governing board.

#### CHAPTER 4. EMPLOYMENT—CERTIFICATED EMPLOYEES

##### Article 1. Rights and Duties

44800. Every person employed by a school district as a probationary or permanent employee in a position requiring certification qualifications who enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service, created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the service of the United States Merchant Marine, or in full-time paid service of the American Red Cross, during any period of national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be entitled to absent himself from his duties as an employee of the district.

Such absence shall not affect in any way the classification of such employee. In the case of a probationary employee, the period of such absence shall not count as part of the service required as a condition precedent to the classification of such employee as a permanent employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee for any purpose.

The dismissal or termination of any probationary employee because of reduced attendance due to war conditions, after his entry into the active military service or service in the American Red Cross, shall not deprive him of any of the benefits of this section.

Within six months after such employee honorably leaves such service or has been placed on inactive duty he shall, subject to the provisions of this section, be entitled to return to the position held by him at the time of his entrance into such service, at the salary to which he would have been entitled had he not absented himself from the service of the school district under this section.

If such employee was employed under a lawful contract for a period in excess of one year in a position in which he had not become a permanent employee of the district, he shall be entitled to return to such position for the period his contract of employment had to run at the time he entered such service. Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

44801. Every person employed by a school district as a

permanent employee in a position requiring certification qualifications who is elected to the Legislature shall be granted a leave of absence from his duties as an employee of the district by the governing board of the district.

During the term of such leave of absence, the employee may be employed by the school district to perform such less than full-time service requiring certification qualifications, for such compensation and upon such terms and conditions, as may be mutually agreed upon.

Such absence shall not affect in any way the classification of such employee.

Within six months after the term of office of such employee expires he shall be entitled to return to the position held by him at the time of his election, at the salary to which he would have been entitled had he not absented himself from the service of the school district under this section.

Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

This section shall apply to any permanent certificated school district employee who held the office of Member of the Assembly or State Senator on or after January 4, 1965.

44802. The governing board of any school district may provide for the payment of the actual and necessary traveling expenses of student teachers of vocational agriculture who hold certificates issued pursuant to Section 44292 when performing the duties of their positions.

All payments heretofore made to student teachers of vocational agriculture on account of actual and necessary traveling expenses incurred by them when performing the duties of their respective positions are hereby confirmed, ratified, and validated.

44803. Every probationary employee of a school district which becomes in its entirety a part of a unified school district and every probationary employee of a school district employed in a school located in a portion of a school district which becomes a part of a unified school district, where the whole of the district does not become a part of a unified school district, shall become a probationary employee of the unified school district. The service of the probationary employee in the annexed district shall be considered as service in the unified school district for the purpose of any law relating to the classification of persons employed in school districts in positions requiring certification qualifications.

44804. Every teacher in the public schools shall before taking charge of a school, and one week before closing a term of school, notify the county superintendent of the fact, naming the day of opening or closing.

The governing board of any school district shall in every case give to the teacher a notice of at least two weeks of its intention to close

the term of school under its charge.

No superintendent shall draw any requisition for the last month's salary of any teacher until the teacher has filed with him the notice of the closing of the term.

44805. Every teacher in the public schools shall enforce the course of study, the use of legally authorized textbooks, and the rules and regulations prescribed for schools.

44806. Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, including kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

44807. Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000.

44808. Notwithstanding any other provision of this code, no school district, city or county board of education, county superintendent of schools, or any officer or employee of such district or board shall be responsible or in any way liable for the conduct or safety of any pupil of the public schools at any time when such pupil is not on school property, unless such district, board, or person has undertaken to provide transportation for such pupil to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances.

In the event of such a specific undertaking, the district, board, or person shall be liable or responsible for the conduct or safety of any pupil only while such pupil is or should be under the immediate and direct supervision of an employee of such district or board.

44808.5. The governing board of a school district may permit the pupils enrolled at any high school to leave the school grounds during the lunch period of such pupils.

Neither the school district nor any officer or employee thereof shall be liable for the conduct or safety of any pupil during such time as the pupil has left the school grounds pursuant to this section.

In the event that the governing board grants such permission, it

shall send the following notice along with the notification of parents and guardians required by Section 48980:

"The governing board of the \_\_\_\_\_ School District, pursuant to Section 44808.5 of the Education Code, has decided to permit the pupils enrolled at \_\_\_\_\_ High School to leave the school grounds during the lunch period.

"Section 44808.5 of the Education Code further states:

"Neither the school district nor any officer or employee thereof shall be liable for the conduct or safety of any pupil during such time as the pupil has left the school grounds pursuant to this section.'"

44809. (a) A state school register shall be kept by every teacher in the public elementary schools, except a teacher in:

(1) A school in which the state school register of each teacher is kept on behalf of the teacher in a central office by an employee of the school district.

(2) A school in which a central file of individual records of pupil enrollment, absence, and attendance is maintained on forms containing at least the minimum items of information prescribed by the State Department of Education, and whose principal submits periodic reports of pupil personnel data to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the State Department of Education.

(b) There shall be recorded in each state school register the absence and attendance of each pupil enrolled in the classes taught by the teacher keeping the register or on whose behalf the register is kept and any additional information required by the State Department of Education.

44810. Every minor over 16 years of age or adult who is not a pupil of the school, including but not limited to any such minor or adult who is the parent or guardian of a pupil of the school, who comes upon any school ground or into any schoolhouse and there willfully interferes with the discipline, good order, lawful conduct, or administration of any school class or activity of the school, with the intent to disrupt, obstruct, or to inflict damage to property or bodily injury upon any person, is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or by imprisonment in the county jail for not more than six months, or both.

44811. Every parent, guardian, or other person who upbraids, insults, or abuses any teacher of the public schools, in the presence or hearing of a pupil, is guilty of a misdemeanor.

44812. Any parent, guardian, or other person who insults or abuses any teacher in the presence of other school personnel or pupils and at a place which is on school premises or public sidewalks, streets, or other public ways adjacent to school premises or at some other place if the teacher is required to be at such other place in connection with assigned school activities is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars (\$50) nor

exceeding five hundred dollars (\$500).

44813. The governing board of every school district shall allow each teacher employed for full time in any regular day school in which two or more teachers are employed, one duty-free lunch period each day in the manner and at the time prescribed by regulation of the State Board of Education.

The State Board of Education shall adopt rules and regulations fixing the duration of the duty-free lunch period of certificated employees of school districts, the time of day when the lunch period shall be granted, and prescribing the conditions under which the duty-free lunch period shall be allowed.

44814. Recognizing that an adequate lunch period free from duty is essential to the health, morale and efficiency of teachers employed full time in any regular day school, the Legislature declares that it is the policy of the state to encourage school districts to provide for an adequate duty-free lunch period for teachers.

In order to provide for such duty-free lunch periods, the governing board of any school district may utilize recreation personnel or other suitable persons to supervise the pupils of the district during the school lunch period.

The provisions of this section shall prevail over any provision of Section 44813 which conflicts herewith.

44815. The governing board of any school district may also utilize persons not having certification qualifications to supervise the pupils of the district during any breakfast period or other nutrition period. The compensation of such personnel may be paid from funds from which the compensation of personnel employed under Section 44814 may be paid.

44816. Except in districts exempted by the Department of Education and in which regular periodic reports of pupil and employee personnel data are submitted by the principal of each school to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the Department of Education, every teacher in the public elementary schools shall at the close of school during each school year make an annual report to the principal of the school in which he is employed; or, in the case of one-teacher schools, to the city or district superintendent of schools, or, if no superintendent is employed, to the county superintendent of schools on forms furnished by the Superintendent of Public Instruction.

Any teacher who is teaching in any school at the close of school shall, in his annual report, include all statistics for the entire school year.

Where one teacher is in charge of a class and keeps the records thereof, assistant teachers or other teachers of the class or any of the pupils thereof who are required to keep no records shall not be required to render reports.

The city, district, or county superintendent of schools shall in no

case draw a requisition for the salary of any teacher for the last month of a school term, until the report has been filed by him and approved.

44817. The principal of each elementary school when directed by the city or district superintendent of schools shall submit an annual report to such superintendent, or, if no superintendent is employed in the district, to the county superintendent of schools, on forms furnished by the Superintendent of Public Instruction.

44818. The principal of each high school, when directed by the city or district superintendent of schools, shall make an annual report to such superintendent, or, if no superintendent is employed in the district, to the county superintendent of schools, on forms furnished by the Superintendent of Public Instruction.

44819. Each city or district superintendent of schools shall make an annual report of the schools under his jurisdiction to the county superintendent of schools on forms furnished by the Superintendent of Public Instruction, which report shall include an affidavit that all employees in positions requiring certification qualifications were properly certificated for the work performed.

44820. The principal of every high school shall annually, on or before the date fixed by the Superintendent of Public Instruction, make out under oath and deliver to the Superintendent of Public Instruction and to the county superintendent of schools, a full and complete report of textbooks then in use in the high school, the courses of study offered, the requirements for graduation, and such other information as may be required by the Superintendent of Public Instruction.

If the report is not filed with the Superintendent of Public Instruction on or before the date fixed, the Superintendent of Public Instruction shall notify the county superintendent of schools having jurisdiction of the high school failing to report, and the county superintendent of schools shall withhold the salary of the principal of the high school until he has been notified by the Superintendent of Public Instruction that the report has been filed.

44821. A high school principal shall not enter into any contract to act as a principal or supervising principal of any elementary school, except an elementary school in the district in which the high school is located, without the approval of the county superintendent of schools.

44822. The principal of any high school may act as principal of any elementary school situated in the high school district.

44823. The principal of any high school may act as the supervising principal of two or more elementary schools situated in the high school district without regard to the number of teachers employed in each of the elementary schools, if so desired by the trustees of the elementary school district or districts and the high school board.

44824. A full-time probationary or permanent classroom teacher currently employed by a school district which decides to maintain classes on Saturday or Sunday, or both, shall not, without his written consent, be required to teach under such program for more than 180

full days during a school year, or for more than the number of full days the schools of the district were maintained during the year preceding implementation of weekend classes, whichever is greater. This section shall not be construed as limiting the power of any governing board of a school district to govern the schools of the district, including the assignment of teachers employed by the district. No such classroom teacher shall be assigned to perform services on a Saturday or Sunday if such teacher objects in writing that such assignment would conflict with his or her religious beliefs or practices.

## Article 2. Employment

44830. Governing boards of school districts shall employ for positions requiring certification qualifications, only persons who possess the qualifications therefor prescribed by law. It shall be contrary to the public policy of this state for any person or persons charged, by said governing boards, with the responsibility of recommending such persons for employment by said boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, or national origin of said applicants for such employment.

44831. Governing boards of school districts shall employ persons in public school service requiring certification qualifications as provided in this code.

44833. Notwithstanding the provisions of Sections 44001, 44830, 44831, or any other provision of law, a noncertificated student enrolled in any public or private college or university in California may be permitted by the governing board of a school district maintaining any of grades 1 through 8, to serve in elementary schools or child care centers as a nonteaching aide under the following conditions:

(a) Such service by the student is based upon a program for the part-time employment of students established by the college or university under those provisions of the federal statute cited as the Economic Opportunity Act of 1964 (Public Law 452, of the 88th Congress), and acts amendatory thereof, which provide for federal financial grants for work-study programs.

(b) The compensation being received by the student for such services is provided, at least in part, by grants made to the college or university by the government of the United States for a program of the type specified in subdivision (a).

(c) The student has been determined under procedures established by the Department of Education to be free of any disability of person or character (other than in professional competency) which would prohibit the issuance to him of any credential or certification document provided for under this code if he were otherwise qualified therefor.

44834. Notwithstanding any provision of law to the contrary, on and after the effective date of this section the governing board of a

school district may employ an individual in any administrative or supervisory position, irrespective of whether or not such individual holds any supervisory or administrative credential; provided the individual so employed meets all of the following criteria:

(1) He holds a valid teaching credential;

(2) He has completed fifteen (15) years service as a teacher, as defined in Section 41011, including ten (10) years of teaching service in the employ of the district which appoints him to an administrative or supervisory position; and

(3) The last ten (10) years of service immediately preceding his appointment to an administrative or supervisory position were as a teacher of the natural sciences, the social sciences (other than education or educational methodology), the humanities, mathematics, and the fine arts.

44835. A student providing services in elementary schools or child development facilities as a nonteaching aide shall perform no instructional work; but shall, under the immediate supervision and direction of a certificated employee, perform noninstructional work which serves to assist certificated personnel in performance of teaching and administrative responsibilities.

44836. Governing boards of school districts shall not employ or retain in employment persons in public school service who have been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

44837. Governing boards of school districts shall not employ or retain in employment any person in public school service who has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

44838. The governing board of a school district shall, as a condition to employment, require an applicant for a position requiring certification qualification to furnish a statement of the military service of the applicant and, if any was rendered, a copy of the discharge or release from service. If no such document is available, the governing board may accept other suitable evidence of the conditions under which the military service of the applicant was terminated.

44839. (a) When a school district or a county superintendent of schools wishes to employ a person in a position requiring certification qualifications and that person has not previously been employed in a position requiring certification qualifications in this state, the

district or county superintendent shall require a medical certificate in such form as shall be prescribed by the State Board of Education showing that the applicant is free from any disabling disease unfitting the applicant to instruct or associate with children. The medical certificate shall be submitted directly to the governing board or county superintendent by a physician and surgeon licensed under the Business and Professions Code, a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, or a commissioned medical officer in the United States Air Force. The medical examination shall have been conducted not more than six months before the submission of the certificate and shall be at the expense of the applicant. A governing board or county superintendent may offer a contract of employment to an applicant subject to the submission of the required medical certificate. Notwithstanding Section 44031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee.

(b) The governing board of a school district or a county superintendent of schools may require certificated employees to undergo a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code, or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, to determine that the employee is free from any communicable disease unfitting the applicant to instruct or associate with children. The periodic medical examination shall be at the expense of the school district or county superintendent. The medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee.

(c) The State Board of Education shall adopt rules and regulations relating to the implementation and administration of this section.

44840. Persons in positions requiring certification qualifications may be elected for the next ensuing school year on and after the 15th day of March, and each person so elected shall be deemed reelected from year to year except as provided in Section 35043, Sections 44221 to 44227, inclusive, Sections 44831 to 44891, inclusive, Sections 44893 to 44900, inclusive, Sections 44901 to 44906, inclusive, and Sections 44908 to 44919, inclusive.

At any time after the 31st day of December, any person not then employed in the school district may be elected for the next ensuing school year to a position requiring certification qualifications.

44841. Any certificated employee not under permanent tenure who fails to signify his acceptance within 45 consecutive calendar days after notice of his election or employment has been given him, or mailed to him by United States registered mail with postage thereon prepaid at his last known place of address, by the clerk or secretary of the governing board of the school district, shall be deemed to have declined the employment.

44842. If, without good cause, a permanent employee of a school

district fails prior to July 1st of any school year to notify the governing board of the district of his intention to remain or not to remain in the service of the district, as the case may be, during the ensuing school year if a request to give such notice, including a copy of this section, shall have been personally served upon him, or mailed to him by United States certified mail with return receipt requested to his last known place of address, by the clerk or secretary of the governing board of the school district, not later than the preceding May 30th, he may be deemed to have declined employment and his services as an employee of the district may be terminated on June 30th of that year.

44843. The county superintendent of schools shall be given immediate notice in writing by the governing board of the district of the employment of persons for positions requiring certification qualifications. The notice shall include but not be limited to such data as may be prescribed by the Superintendent of Public Instruction, in regulations he is herewith authorized to adopt.

44844. Except as otherwise provided in Sections 44831 to 44855, inclusive, every probationary or permanent employee employed before July 1, 1947, shall be deemed to have been employed on the date upon which he first accepted employment in a probationary position.

In case two or more employees accepted employment on the same date, the governing board of the district shall determine the order of employment by lots drawn by the employees concerned or assigned at random by an independent auditing firm employed in accordance with Section 44845 or by other means as determined pursuant to the procedures described in Article 1 (commencing with Section 7100) of Chapter 2 of Part 5 of Division 1 of Title 1.

44845. Every probationary or permanent employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which he first rendered paid service in a probationary position.

Every certificated employee who first rendered paid service on the same date shall participate in a single drawing to determine the order of employment except that in school districts having an average daily attendance in excess of 15,000, an independent auditing firm may be employed to assign to such employees numbers at random which shall determine the order of employment. Any determination of an employee's order of employment pursuant to this section shall be made within 30 days of the date service was first rendered by the employee.

44846. The following general provisions shall apply regardless of date of employment:

The order once determined by lot shall be permanent, and shall be entered on the permanent records of the district.

Records showing date of employment, whether kept by the district or by the county, shall be accessible, on demand, to any certificated employee of the district or to his designated representative.

In the absence of records as to any of the matters referred to in the two preceding sections, the board, in accordance with evidence presented, shall determine the order of employment after giving employees a reasonable opportunity to present such evidence.

The order of employment in all districts, when required, shall be determined as prescribed by Sections 44830 to 44855, inclusive.

The board shall have power and it shall be its duty to correct any errors discovered from time to time in its records showing the order of employment.

44847. When any school or part thereof shall have been transferred from one district to another, employment for any employees who transfer with said school or part thereof shall date from the time said employees first accepted employment (if before July 1, 1947) or rendered paid service (if after June 30, 1947) as probationary employees in the district from which the school or part thereof and the said employees were transferred.

44848. When any certificated employee shall have resigned or been dismissed for cause and shall thereafter have been reemployed by the board, his date of employment shall be deemed to be the date on which he first accepted reemployment (if reemployed before July 1, 1947) or rendered paid service (if reemployed after June 30, 1947) after his reemployment.

When an employee's services are terminated for lack of enrollment or discontinuance of service or are otherwise interrupted in a manner declared by law not to constitute a break in service, his original order of employment shall stand.

44849. Nothing in Sections 35029, 35161, 35162, Sections 44030 to 44034, inclusive, Sections 44036 to 44048, inclusive, Sections 44800 to 44802, inclusive, Sections 44804 to 44824, inclusive, Sections 45021 to 45060, inclusive, Section 48913, Sections 87274 to 87299, inclusive, Sections 87462, 87463, 87469, 87713, 88021, 88071, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19 of Division 1 of Title 1, Article 1 (commencing with Section 44000), Article 3 (commencing with Section 44060) of Chapter 1, Chapter 2 (commencing with Section 44200), Chapter 3 (commencing with Section 44400), Article 2 (commencing with Section 44830), Article 3 (commencing with Section 44930) of Chapter 4, Chapter 5 (commencing with Section 45100) of this part, Article 3 (commencing with Section 87250) of Chapter 2, Article 2 (commencing with Section 87600), Article 4 (commencing with Section 87660) of Chapter 3 of Part 51 of Division 7 of Title 3, shall be construed in such manner as to deprive any person of his rights and remedies in a court of competent jurisdiction on a question of law and fact.

44850. Nothing in Sections 35029, 35161, 35162, Sections 44030 to 44034, inclusive, Sections 44036 to 44048, inclusive, Sections 44800 to

44802, inclusive, Sections 44804 to 44824, inclusive, Sections 45021 to 45060, inclusive, Section 48913, Sections 87274 to 87299, inclusive, Sections 87462, 87463, 87469, 87713, 88021, 88071, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19 of Division 1 of Title 1, Article 1 (commencing with Section 44000), Article 3 (commencing with Section 44060) of Chapter 1, Chapter 2 (commencing with Section 44200), Chapter 3 (commencing with Section 44400), Article 2 (commencing with Section 44830), Article 3 (commencing with Section 44930) of Chapter 4, Chapter 5 (commencing with Section 45100) of this part, Article 3 (commencing with Section 87250) of Chapter 2, Article 2 (commencing with Section 87600), Article 4 (commencing with Section 87660) of Chapter 3 of Part 51 of Division 7 of Title 3, shall be construed so as to repeal or negate any provisions concerning employees of school districts contained in the charter of any city, county, or city and county, adopted and approved in conformity with Article XI of the Constitution of this state.

44851. All employments under the provisions of Section 35161, Sections 44221 to 44227, inclusive, Sections 44831 to 44887, inclusive, Sections 44889 to 44891, inclusive, Sections 44893 to 44906, inclusive, Sections 44908 to 44919, inclusive, Sections 87462 and 87469, shall be subordinate to the right of the Legislature to amend or repeal Section 35161, Sections 44221 to 44227, inclusive, Sections 44831 to 44887, inclusive, Sections 44889 to 44891, inclusive, Sections 44893 to 44906, inclusive, Sections 44908 to 44919, inclusive, Sections 87462 and 87469, or any provision or provisions thereof at any time, and nothing herein contained shall be construed to confer upon any person employed pursuant to the provisions hereof a contract which will be impaired by the amendment or repeal of Section 35161, Sections 44221 to 44227, inclusive, Sections 44831 to 44887, inclusive, Sections 44889 to 44891, inclusive, Sections 44893 to 44906, inclusive, Sections 44908 to 44919, inclusive, Sections 87462 and 87469, or of any provision or provisions thereof.

44852. Nothing in this code shall be construed as prohibiting the employment of persons in positions requiring certification qualifications for less than a full school year in temporary schools or classes.

44853. The governing board of any school district, subject to the rules and regulations prescribed by the State Board of Education, may enter into an agreement with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, or other district within the state, for the exchange and employment of regularly credentialed employees and employees of public schools of any foreign country, state, territory, or possession, or other district within this state. Any certificated person so employed as provided in this section shall be known as an "exchange

certificated employee." No exchange shall be made without the consent of the employee to be exchanged.

Due consideration shall be given to the general qualifications and professional status of the exchange employee as compared to the general qualifications and professional status of the employee for whom exchanged. However, it shall not be a requirement that an exchange certificated employee be a teacher of the same subject or grade, or both, as the employee for whom exchanged. If the service authorized is other than teaching, it shall not be a requirement that the service be at the same grade level or that the service be exactly the same as the employee for whom exchanged.

No person may be employed as an exchange employee by a school district in the state unless he holds the necessary valid credential or credentials issued by the Commission for Teacher Preparation and Licensing authorizing him to serve in a position requiring certification qualifications in the school district proposing to employ him for a period not to exceed one year, except that, by unanimous consent of the governing board, and of the certificated employees concerned, this period may be extended to two years. The commission may establish minimum standards for the credentials for exchange certificated employees, provided however, that no exchange certificated employee shall be required to pay any fee or other charge for the issuance to him of any necessary valid credential or credentials authorizing him to serve in a position requiring certification qualifications in any school district in this state.

44854. Acceptance of any exchange position by an employee of any school district in the state shall not affect his right to the permanent classification to which he is entitled, at the time of the acceptance, or any of his rights under the state teachers retirement salary provisions of this code, or under any local or district retirement plan, or system, and the time served in the exchange position shall be counted as time served in the service of the district in which he is employed immediately prior to acceptance of the exchange position in determining his status under the provisions of Sections 35029, 35161, 35162, Sections 44030 to 44034, inclusive, Sections 44036 to 44048, inclusive, Section 44800 to 44802, inclusive, Sections 44804 to 44824, inclusive, Sections 45021 to 45060, inclusive, Section 48913, Sections 87274 to 87299, inclusive, Sections 87462, 87463, 87469, 87713, 88021, 88071, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19 of Division 1 of Title 1, Article 1 (commencing with Section 44000), Article 3 (commencing with Section 44060) of Chapter 1, Chapter 2 (commencing with Section 44200), Chapter 3 (commencing with Section 44400), Article 2 (commencing with Section 44830), Article 3 (commencing with Section 44930) of Chapter 4, Chapter 5 (commencing with Section 45100) of this part, Article 3

(commencing with Section 87250) of Chapter 2, Article 2 (commencing with Section 87600), Article 4 (commencing with Section 87660) of Chapter 3 of Part 51 of Division 7 of Title 3, and under the provisions of this code relating to state retirement salary, and under any local or district retirement plan.

44855. If the teacher from the district within the state who serves as an exchange teacher without the state and the governing board regularly employing him so agree, the district may pay his regular salary, making all deductions provided by law for retirement purposes, during the period of the exchange teaching. In such case the district shall not pay the salary of the exchange teacher from without the state, serving the district in exchange for its regular teacher.

In the event a teacher from a district within this state serving as an exchange teacher without the state and to whom the governing board of such district is paying the regular salary of such teacher as herein provided, is compelled to absent herself from her duties because of injury, illness or quarantine, the governing board of the district within this state may pay the substitute employed to take the place of such teacher and shall deduct the amount so paid the substitute from the compensation of the teacher.

44856. The governing board of a school district may, for the purposes of providing bilingual instruction, foreign language instruction, or cultural enrichment, in the schools of the district, subject to the rules and regulations of the State Board of Education conclude arrangements with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, for the hiring of bilingual teachers employed in public or private schools of any foreign country, state, territory, or possession. To be eligible for employment the teacher must speak English fluently. Any persons so employed pursuant to this section shall be known as a "sojourn certificated employee."

No person may be hired as a sojourn certificate employee by a school district unless he holds the necessary valid credential or credentials issued by the Commission for Teacher Preparation and Licensing authorizing him to serve in a position requiring certification qualifications in the school district proposing to employ him. Such person may be employed only for a period not to exceed two years, except that thereafter such period of employment may be extended from year to year for a total period of not more than five years upon verification by the employing district that termination of such employment would adversely affect an existing bilingual or foreign language program or program of cultural enrichment and that attempts to secure the employment of a certificated California teacher qualified to fill such position have been unsuccessful. The commission shall establish minimum standards for the credentials for sojourn certificated employees.

44857. Each person employed by the governing board of a school district for a position requiring certification qualifications must, not

later than 60 days after the date fixed by the governing board of the district for the commencement of his service, register in the manner prescribed by Section 44310 a valid certification document, issued on or before said date, authorizing him to serve in the position for which he was employed, and must, not later than 60 days after the renewal thereof, register the renewed certification document in the manner prescribed by Section 44310. If any person so employed is the holder of a California State University and Colleges, or state teachers college, diploma accompanied by the certificate of the State Board of Education, or of an educational or life diploma of this state, and has presented the same to, and has had his name recorded by, the county superintendent of schools of the county as heretofore provided by this code, such person shall be deemed to have registered such diploma under Section 44310.

44858. The Legislature hereby declares that it is contrary to the interest of this state and of the people thereof for any governing board or any person or persons charged by the governing board of any school district with the responsibility of interviewing and recommending persons for employment in positions requiring certification to fail or refuse to do so for reason of the age or marital status of any applicant for such employment, except as otherwise provided in this code.

44859. No school district may adopt or maintain any rule or regulation which requires a candidate for a position requiring certification qualifications to be a resident of the district or to become a resident of the district, or which requires that an employee maintain residency within the district; nor may a district grant any preferential treatment to candidates or employees because they are residents of the district.

The Legislature in enacting this section recognizes that the public school system of this state is the property of all its citizens, and that all qualified candidates for positions of employment with school districts, regardless of residence, should be granted the opportunity to compete for and obtain such positions based solely on merit and fitness.

44860. No person shall be employed as principal of a school of six or more teachers, including the principal, unless he is the holder of a valid teacher's credential and either a valid school administration credential of the same grade as the school to be administered or a valid standard supervision credential authorizing service as a principal of a school of the same grade as the school to be administered.

44861. A substitute principal holding a valid teacher's credential of the same grade as the school to be administered may be employed without meeting the requirements of Section 44860 to meet an emergency for not more than five months of any school year.

44862. No person is eligible to teach in any public school in the state, or to receive a certificate to teach who has not attained the age of 18 years.

44863. No teacher holding a special certificate shall be employed to teach any subject not authorized in the certificate.

44864. Each teacher in a joint elementary district shall hold a valid certificate in the county in which the schoolhouse is located.

44865. The qualifications of a home teacher shall be a valid teaching credential issued by the State Board of Education, or the Commission for Teacher Preparation and Licensing, and special fitness to perform the duties of a home teacher.

44866. The qualifications of a home instructor of physically handicapped pupils shall be a valid teaching credential or a credential authorizing the teaching of exceptional children in an area of specialized preparation issued by the State Board of Education, or the Commission for Teacher Preparation and Licensing.

44867. Teachers in opportunity schools, classes, or programs shall have the same qualifications and shall be employed in the same manner as in other elementary and secondary schools of the school district in which the opportunity schools, classes, or programs are situated.

44868. No person shall be employed as a librarian in any elementary or secondary school, unless he holds a valid credential of proper grade authorizing service as a librarian, or a valid teaching credential issued by the Commission for Teacher Preparation and Licensing if he has completed the specialized area of librarianship.

44869. Any librarian when employed full time as librarian or serving full time, partly as librarian and partly as teachers, shall rank as a teacher.

44870. No one shall be employed to supervise the work of teachers for more than half time during any school week unless he is the holder of a valid teacher's certificate authorizing him to teach in the schools and classes in which he is to supervise instruction and a valid supervision certificate.

44871. The qualifications of supervisors of health shall be as provided in Sections 44873 to 44878, inclusive.

44872. For the purposes of Sections 44873 to 44878, inclusive, "standard designated services credential with a specialization in health" and "services credential with a specialization in health" includes a community college health services credential when the service is provided in grades 13 and 14.

44873. The qualifications for a physician employed to serve on a half-time or greater than half-time basis shall be a valid certificate to practice medicine and surgery issued by the State Board of Medical Examiners or Board of Osteopathic Examiners and either a services credential with a specialization in health or a valid credential issued prior to November 23, 1970. The qualifications for a physician employed for less than half time shall be a valid certificate to practice medicine and surgery issued by the State Board of Medical Examiners. Any school district may employ and compensate physicians meeting the foregoing qualifications for the performance

of medical services for that district and shall provide liability insurance coverage for the period of his employment.

As used in this section "medical services" includes, but is not limited to, any medical services required to be performed while required to be in attendance at high school athletic contests or meets.

44874. The qualifications for a psychologist or social worker are a valid certificate issued by the appropriate California agency authorized by law to certify such persons and a services credential with a specialization in health. Any school district may employ and compensate psychologists and social workers meeting the foregoing qualifications.

44875. The qualifications for a dentist are a valid certificate issued by the Board of Dental Examiners and a services credential with a specialization in health or a valid credential issued prior to November 23, 1970. Any school district may employ and compensate dentists meeting the foregoing qualifications.

44876. The qualifications for a dental hygienist shall be a valid certificate issued by the Board of Dental Examiners of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

44877. The qualifications for a nurse shall be a valid certificate of registration issued by the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

The services credential with a specialization in health authorizing service as a school nurse shall not authorize teaching services unless the individual holds a baccalaureate degree, or its equivalent, and has completed a fifth year of preparation.

44878. The qualifications for an optometrist are a valid certificate issued by the State Board of Optometry and a services credential with a specialization in health or a credential issued prior to November 23, 1970. Any school district may employ and compensate optometrists meeting the foregoing qualifications.

44879. The qualifications for an audiometrist working under the direction of health services personnel pursuant to Section 49420 shall be a valid certificate or license issued by, or valid registration with, the California state agency authorized by law to issue the certificate or license, or to effect the registration, required for performance of the service.

44880. The principal of any public school may employ when so directed by the governing board of the school district, special lecturers well qualified in their subjects to speak before classes and assemblies of students of the school, without the lecturer being required to hold a teacher's credential or certificate.

No such lecturer may be employed by the principal of any school for more than four lectures in any term.

44882. Every employee of a school district of any type or class having an average daily attendance of 250 or more who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.

44883. Every certificated employee of a school district of any type or class having an average daily attendance of less than 250, and every certificated employee of any school district in a position requiring a supervision or administration credential, may be offered a continuing contract to cover a period longer than one year but not to exceed four years.

44884. At the discretion of the governing board of a district with 60,000 average daily attendance or more every employee of the district who, after having been employed by the district for two consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications may, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district. If such board is the governing board of more than one district it may exercise the discretionary power given it by this section in each district under its jurisdiction, whether or not each of such districts has 60,000 average daily attendance.

44885. Every employee of a school district of any type or class having an average daily attendance of less than 250 pupils, who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications, may be classified by the governing board of the district as a permanent employee of the district. If the classification is not made the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

44886. The governing board of a school district which employs in a position requiring certification qualifications any person who has become a permanent certificated employee in any school district may employ such person as a permanent certificated employee.

44887. When a teacher of classes for adults serves sufficient probationary time as provided in Sections 44882 to 44885 and 44908 to be eligible for election to permanent classification in that district, his tenure shall be for such service as is equivalent to the average number of hours per week which he has served during his probationary years. In no case shall such an employee be classified as permanent for more than one full-time assignment. The service for which such a person has acquired tenure may be reduced in

conformity with Sections 44955 and 44956.

Notwithstanding any other provision to the contrary, in a district which has, or in a district which is one of two or more districts governed by governing boards of identical personnel which have a combined, average daily attendance of 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding fiscal year, no person who is assigned 10 hours or less a week in adult classes in such a district shall be eligible for election to permanent classification in such district on account of such assignment in adult classes.

Notwithstanding any other provision to the contrary, any person who is employed to teach adults for not more than 60 percent of the hours per week considered a full-time assignment for permanent employees having comparable duties shall be classified as a temporary employee, and shall not become a probationary employee under the provisions of Section 44954.

44889. No employee of a school district or districts, in which the average daily attendance of all said districts combined is in excess of 200,000, governed by the same governing board shall hereafter acquire permanent certificated tenure or permanent noncertificated status, or a combination of such tenure and status, for more than one full-time position. Any employee who hereafter acquires any combination of permanent certificated tenure or permanent noncertificated status or both which exceeds that for one full-time position shall have a choice which tenure or status to retain so long as that retained does not exceed one full-time position.

It is the intent of this section that an employee holding permanent certificated tenure or permanent noncertificated status for a full-time position may not have permanent tenure or status protection for any additional time in either a certificated or a noncertificated position under any such school district governed by the same governing board.

44890. Nothing in Sections 44882 to 44885, inclusive, shall be construed to give permanent classification to a person in the adult school who is already classified as a permanent employee in the day school. In case a teacher obtains permanent classification in the evening school and later is eligible for the same classification in the day school by reason of having served the probationary period therein, he shall be given his choice as to which he shall take.

Notwithstanding any other provision to the contrary, service in the evening school shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee in the day school, except service in the evening school rendered by a person rendering services in the day school who is directed or specifically requested by the school district to render services in the evening school either in addition to, or instead of, rendering service in the day school. Service in the day school shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to,

classification as a permanent employee in the evening school, except service in the day school rendered by a person rendering services in the evening school who is directed or specifically requested by the school district to render service in the day school either in addition to, or instead of, rendering service in the evening school.

44891. Nothing in Sections 44882 to 44887, inclusive, Sections 44889 and 44890 shall be construed as affecting the classification of any employee as it existed on September 13, 1941.

44892. No permanent employee of a school district shall be dismissed without his consent or deprived of his classification as a permanent employee of the district when the district does not have sufficient funds to pay his salary.

44893. A permanent employee when advanced from a teaching position to an administrative or supervisory position, or assigned any special or other type of work, or given special classification or designation requiring certification qualifications, shall retain his permanent classification as a classroom teacher.

44894. (a) A permanent employee not qualified to render service as a classroom teacher, when advanced to an administrative or supervisory position, or assigned any special or other type of work, or given special classification or designation requiring certification qualifications, shall retain his permanent classification for the performance of the type of service for which he was qualified prior to such advancement, assignment, or special classification or designation.

(b) If an employee is authorized to render service in more than one type of position for which certification qualifications are required, either by virtue of his possession of one certification document authorizing service in two or more of such positions, or by virtue of his possession of separate certification documents authorizing service in two or more such positions, or any combination thereof, he shall, upon satisfying all other requirements prescribed by law, acquire permanent status as follows:

(1) If he is authorized to render service as a classroom teacher, he shall acquire permanent status as a classroom teacher.

(2) If he is not authorized to render service as a classroom teacher, he shall acquire permanent status below the administrative or supervisory level as a staff employee with multiple qualifications. His right to serve in one or more of the positions for which he is qualified to serve shall be subject to the power of assignment of the school district governing board.

44895. A permanent employee, as specified in Section 13314.3, when advanced to an administrative or supervisory position requiring certification qualifications, or assigned any special or other type of work requiring certification qualifications, or given special classification or designation requiring certification qualifications, shall retain his permanent classification as specified in Section 44894.

If such a person is advanced to an administrative or supervisory position not requiring certification qualifications, is assigned any

special or other type of work not requiring certification qualifications, or is given special classification or designation not requiring certification qualifications, his right to retain permanent classification shall be governed by the provisions of Article 3 (commencing with Section 44060) of Chapter 1 of this part.

44896. Whenever a person employed in an administrative or supervisory position requiring certification qualifications is transferred to a teaching position, the governing board of the school district shall give such employee, when requested by him, a written statement of the reasons for such transfer.

44897. A person employed in an administrative or supervisory position requiring certification qualifications upon completing a probationary period, including any time served as a classroom teacher, in the same district, shall, in a district having an average daily attendance of 250 or more pupils, be classified as and become a permanent employee as a classroom teacher. In a district having an average daily attendance of less than 250 pupils, he may be so classified.

44898. Notwithstanding the provisions of Section 44897 to the contrary, the governing board of any school district shall, with respect to each person who is employed in an administrative or supervisory position requiring certification qualifications under a contract of employment providing a four-year term of employment and who either has not been previously employed by the district in such position or has been employed in such position but not under such a four-year contract, determine prior to May 15 of the third year under such four-year contract of employment whether to grant or deny the person permanent classification as a classroom teacher. If it grants such classification, the person shall be classified as and become a permanent employee as a classroom teacher.

44899. A person employed in an administrative or supervisory position by more than one district shall be given permanent classification in whichever district he may select for the permanent classification. Other permanent classification shall be given to such an employee in a district situated wholly or partly within a city or city and county where the charter of the city or city and county provides for other classification.

44900. Any certificated employee having permanent classification in a district, who is granted a leave of absence and transfers to another district which is under the supervision of the same chief administrative officer or district superintendent as the district from which the employee is on leave, may acquire permanent classification in the district to which he transferred if he is employed for a second year in that district, at which time his permanent classification in the district from which he transferred shall expire.

44901. A certificated employee who has served in a position or positions requiring certification qualifications in two or more districts, each having an average daily attendance of 250 or more and

governed by governing boards of identical personnel, for a total of three complete consecutive school years, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the commencement of the fourth consecutive school year be classified as a permanent employee of the last district in which he was employed prior to his election for the fourth consecutive school year.

Where there are two or more districts, each having an average daily attendance of 250 or more and governed by governing boards of identical personnel, a certificated employee who has served in one of the districts for three complete consecutive school years, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall at the commencement of the fourth consecutive school year be classified as and become a permanent employee of the last district in which he was employed prior to his election for the fourth consecutive school year.

44902. The division, uniting, unionization, unification, or consolidation of any school district or districts, or any change in school district boundaries or organization, shall not affect the classification of certificated employees already employed by any school district affected. Such employees shall have the same status with respect to their classification by the district, including time served as probationary employees of the district after the division, uniting, unionization, unification, or consolidation, or change in school district boundaries or organization as they had prior thereto. If such division, uniting, unionization, unification, or consolidation, or change in school district boundaries or organization results in the school or other place in which any such employee is employed being maintained by another district, any such employee, if a permanent employee of the district which formerly maintained such school or other place of employment, shall be employed as a permanent employee of the district which thereafter maintains the school or other place of employment, unless such employee elects to continue in the employ of the first district. If such employee is a probationary employee of the district which formerly maintained such school or other place of employment, he shall be employed by the district which thereafter maintains the school or other place of employment, unless such probationary employee is terminated by such district pursuant to Section 44949 or 44955, and, if not so terminated, his status with respect to classification by such district shall be the same as it would have been had the school or other place of employment continued to be maintained by the district which formerly maintained it. As used in this paragraph, "the school or other place in which any such employee is employed" and all references thereto, includes, but is not limited to, the school services or school program which, as a result of any division, uniting, unionization, unification, or consolidation of a school district, will be provided by another district, irrespective of whether any particular building or buildings

in which such schoolwork or school program was conducted is physically located in the new district and irrespective of whether any new district resulting from such division elects to provide for the education of its pupils by contracting with another school district until such time as the new district constructs its own facilities.

As used in the preceding paragraph of this section "any change in school district boundaries or organization" includes, but is not limited to, the formation of a community college district which includes a high school district maintaining a community college, and the reorganization of a territory into a new different or additional high school or elementary school district or districts.

In case the unionization, unification, uniting, or consolidation of two or more school districts results in a district in which, under the provisions of this code then in effect, the certificated employees are entitled to probationary or permanent classification, the employees of the union, unified, or consolidated district, or of the school district formed by uniting two or more school districts shall be given such classification on the same basis as certificated employees in other districts of like average daily attendance.

44903. On the unionization, unification, uniting, or consolidation of one or more school districts in which the average daily attendance for the preceding school year was less than 250 pupils, with a district or districts in which the average daily attendance was or, as a result of the unionization, uniting, consolidation, or unification, becomes 250 or more pupils, the regular three-year probationary period shall be served after the effective date of the unionization, unification, uniting, or consolidation, by any probationary employee who has been serving in a district of less than 250 average daily attendance. The elected governing board of any such union, unified, or consolidated district, or of the school district formed by uniting two or more school districts, at its option, may classify as a permanent employee of the district, any probationary employee of the districts making up the union, unified, or consolidated district, or of the school district formed by uniting two or more school districts, who, prior to the unionization, unification, uniting, or consolidation of the districts, had been employed by any of the districts for three complete, consecutive school years in a position or positions requiring certification qualifications.

44904. Sections 44902 and 44903 shall apply to any division, uniting, unionization, unification, or consolidation of school districts, or change in school district boundaries or organization, made at any time subsequent to January 1, 1931, to the same extent as changes made subsequent to April 10, 1937, and the provisions hereof shall be retroactive to January 1, 1931.

Nothing in this section or in Sections 44902 and 44903 shall be construed to nullify or in any manner affect the classification of any employee of a district now or hereafter classified as a permanent employee thereof by operation of this or any other provision of law.

44905. Nothing in Sections 13304 to 13312, inclusive, Sections

13314 to 13318, inclusive, Sections 13320 to 13326, inclusive, and Sections 13328 to 13337, inclusive, shall be construed as affecting any permanent employee classified as such on August 14, 1931. No decrease in the average daily attendance of any school district shall operate to deprive any permanent employee of the district of his classification.

44906. Except in districts situated wholly or partly within the boundaries of a city or city and county where the charter of the city or city and county provides an age at which employees, including certificated employees of the districts, shall be retired, when a permanent or probationary employee reaches the age of 65 years, his permanent or probationary classification shall cease and thereafter employment shall be from year to year at the discretion of the governing board.

44907. The retirement of any employee of a school district under the provisions of any retirement law shall automatically effect the dismissal of the employee from the employ of the district at the end of the current school year.

44908. A probationary employee who, in any one school year, has served for at least 75 percent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year. In case of evening schools, 75 percent of the number of days the evening schools of the district are in session shall be deemed a complete school year.

44909. The governing board of any school district may employ persons possessing an appropriate credential as instructors in classes conducted under contract with public or private agencies, or other categorically funded projects of indeterminate duration. The terms and conditions under which such persons are employed shall be mutually agreed upon by the employee and the governing board and such agreement shall be reduced to writing. Service pursuant to this section shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district unless (1) such person has served pursuant to this section, for at least 75 percent of the number of days the regular schools of the district by which he is employed are maintained, and (2) such person is subsequently employed as a probationary employee in a position requiring certification qualifications. Such persons may be employed for periods which are less than a full school year and may be terminated at the expiration of the contract or specially funded project without regard to other requirements of this code respecting the termination of probationary or permanent employees.

This section shall not be construed to apply to any regularly credentialed teacher who has been employed to teach in the regular educational programs of the school district as a probationary employee before being subsequently assigned to any one of these programs.

44910. Service by a person as an instructor in classes conducted

at regional occupational centers or programs, as authorized pursuant to Section 52301, shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

This section shall not be construed to apply to any regularly credentialed teacher who has been employed to teach in the regular educational programs of the school district and subsequently assigned as an instructor in regional occupational centers or programs, nor shall it affect the status of regional occupational center teachers classified as permanent or probationary at the time this section becomes effective.

44911. Service by a person under a provisional credential shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

44912. Service under a credential authorizing service only as a teacher of basic military drill in high school cadet companies established under Chapter 1 of Part 2 of Division 2 of the Military and Veterans Code shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

44913. Nothing in Sections 44882 to 44887, inclusive, Sections 44890, 44891, Sections 44893 to 44906, inclusive, and Sections 44908 to 44919, inclusive, shall be construed as permitting a certificated employee to acquire permanent classification with respect to employment in a summer school maintained by a school district, and service in connection with any such employment shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of the district. The provisions of this section do not constitute a change in, but are declaratory of, the preexisting law.

44914. If an employee of a school district has served as a probationary employee of the district in a position requiring certification qualifications, for one complete school year, and in the year immediately preceding the service as probationary employee has served as a substitute employee, or as a substitute and probationary employee, serving in both capacities during the same school year in the schools of the district, at least 75 percent of the number of days the regular schools of the district were maintained, the governing board of the district may count the year of employment as a substitute or as a substitute and probationary employee as one year of the probationary period which he is required by law to serve as a condition to being classified as a permanent employee of the district.

44915. Governing boards of school districts shall classify as probationary employees, those persons employed in positions requiring certification qualifications for the school year, who have not been classified as permanent employees or as substitute employees.

44916. The classification shall be made at the time of employment and thereafter in the month of July of each school year. At the time of initial employment during each academic year, each new certificated employee of the school district shall receive a written statement indicating his employment status and the salary that he is to be paid. If a school district hires a certificated person as a temporary employee, the written statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. If a written statement does not indicate the temporary nature of the employment, the certificated employee shall be deemed to be a probationary employee of the school district, unless employed with permanent status.

44917. Except as provided in Sections 44888 and 44920, governing boards of school districts shall classify as substitute employees those persons employed in positions requiring certification qualifications, to fill positions of regularly employed persons absent from service.

After September 1 of any school year, the governing board of any school district may employ, for the remainder of the school year, in substitute status any otherwise qualified person who consents to be so employed in a position for which no regular employee is available, including persons retired for service under the State Teachers' Retirement System. Inability to acquire the services of a qualified regular employee shall be demonstrated to the satisfaction of the Commission for Teacher Preparation and Licensing.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a position requiring certification qualifications, be classified by the governing board as a probationary employee and the previous year's employment as a temporary employee shall be deemed one year's employment as a probationary employee for purposes of acquiring permanent status.

44918. Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in such school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year.

Any such employee shall be reemployed for the following school year to fill any vacant positions in the school district for which the employee is certified and qualified to serve.

For purposes of this section, "qualified to serve" shall be defined to mean the possession of an appropriate credential plus completion of appropriate academic preparation or experience in the subject matter in which the vacant position occurs.

For purposes of this section, "vacant position" means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a

position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

Any employee classified as a substitute or temporary employee who has rendered the service required to qualify under this section but who has not been reemployed due to a lack of a vacant position shall be reemployed as a substitute or temporary employee for the following school year.

In any district in which appointments are made from eligible lists established by examination, special eligible lists shall be established at the end of each school year which consist of the names of those employees who met the requirements of this section. Such lists shall be in rank order based on the final scores established by examination. Such lists shall be valid for at least two school years. Offers for appointments to probationary status during the ensuing school year shall be made from such special eligible lists established by examination; provided, however, permanent or probationary employees terminated during the preceding 39 months pursuant to Section 44955, shall be given priority in employment over persons on such special eligible lists.

Those employees classified as substitutes, and who are employed to serve in an on-call status to replace absent regular employees on a day-to-day basis shall not be entitled to the benefits of this section.

Permanent and probationary employees subjected to a reduction in force pursuant to Section 44955 shall, during the period of preferred right to reappointment, have prior rights to any vacant position in which they are qualified to serve superior to those rights hereunder afforded to temporary and substitute personnel who have become probationary employees pursuant to the provisions of this section.

44919. Governing boards of school districts shall classify as temporary employees those persons requiring certification qualifications, other than substitute employees, who are employed to serve from day to day during the first three school months of any school term to teach temporary classes not to exist after the first three school months of any school term or to perform any other duties which do not last longer than the first three school months of any school term, or to teach in special day and evening classes for adults or in schools of migratory population for not more than four school months of any school term. If the classes or duties continue beyond the first three school months of any school term or four school months for special day and evening classes for adults, or schools for migratory population, the certificated employee, unless a permanent employee, shall be classified as a probationary employee. The school year may be divided into not more than two school terms for the purposes of this section.

In any district, the governing board may, to prevent the stoppage of school district business when an actual emergency arises and persons are not immediately available for probationary classification, make an appointment to a position on a temporary basis for a period

not to exceed 20 working days. The person so appointed shall be deemed to be a temporary employee who is employed to serve from day to day. Service by a person in such an appointment on a temporary basis shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

44920. Notwithstanding the provisions of Sections 44917 and 44919, the governing board of a school district may employ as a teacher, for a complete school year, but not less than one semester during a school year unless the date of rendering first paid service begins during the second semester and prior to March 15th, any person holding appropriate certification documents, and may classify such person as a temporary employee. The employment of such persons shall be based upon the need for additional certificated employees during a particular semester or year because a certificated employee has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant position requiring certification qualifications, be classified by the governing board as a probationary employee and the previous year's employment as a temporary employee shall be deemed one year's employment as a probationary employee for purposes of acquiring permanent status.

For purposes of this section "vacant position" means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

44921. Notwithstanding the provisions of Section 44919, the governing board of a unified or high school district may employ persons requiring certification qualifications for the first semester only, and classify such persons as temporary employees, whenever the district expects a reduction in student enrollment during the second semester due to students completing graduation requirements at midyear. The number of persons so employed shall be limited to requirements based on the anticipated reduced enrollment as determined by the governing board. Persons so employed who are continued in employment beyond the first semester shall be deemed probationary employees for the entire school year.

Any such employee shall be reemployed for the following semester or school year to fill any vacant positions in the school district for which the employee is certified. Preference for available positions shall be determined by the governing board using the method prescribed in Sections 44845 and 44846.

For purposes of this section "vacant position" means a position in

which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

**44922.** Notwithstanding any other provision, the governing board of a school district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code:

(a) The employee must have reached the age of 55 prior to reduction in workload.

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(d) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(e) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position.

(f) This option is limited in prekindergarten through grade 12 to certificated employees who do not hold positions with salaries above that of a school principal.

**44923.** In the event a permanent employee of a school district has tenure as a full-time employee of the district, any assignment or employment of such employee in addition to his full-time assignment may be terminated by the governing board of the district at any time.

**44924.** Except as provided in Sections 44937 and 44956, any contract or agreement, express or implied, made by any employee to waive the benefits of this chapter or any part thereof is null and void.

Notwithstanding provisions of this or any other section of this code, governing boards of school districts may employ persons in positions requiring certification qualifications on less than a full-time basis.

**44925.** The governing board of any school district may employ or engage as an independent contractor a qualified person to serve as limited-term or part-time reader assistant in connection with

instruction in composition and writing, and in mathematics, to teachers. Any person employed as a reader shall not be deemed to be employed in a position requiring certification qualifications, and, unless otherwise determined by the governing board, shall not be subject to the provisions of Chapter 5 (commencing with Section 45100) of this part. The governing board may pay such hourly or unit compensation rates as it deems proper for the services rendered. It is the intent of the Legislature in enacting this section not to authorize an increase in the number of pupils who may be assigned to any class, but to provide an opportunity for improvement in the quality of student writing and mathematics abilities through more frequent assignments of compositions and more work in mathematics made possible by the employment of suitably trained persons to assist the instructor in the careful marking and analysis of the pupils' work. Furthermore, the means adopted for employing persons as reader assistants is not intended as an encroachment upon the merit system of public employment, but is adopted as the most practical arrangement, since most work of such nature will be done as part-time work and in the home.

44926. The governing board of any school district may employ any qualified person who possesses a temporary certificate to serve as a teacher-assistant in a program conducted in cooperation with a California teacher training institution. No person shall be so employed unless he is enrolled as a student in a cooperating California teacher training institution at the time the service is rendered. Service by a person under a teacher-assistant certificate shall not be included in computing the service required as a prerequisite to the attainment of, or eligibility to, classification as a permanent employee of a school district. The governing board may make such payments as it deems proper for the services rendered.

Any person employed under this section shall not be subject to the provisions of Chapter 1 (commencing with Section 22000) to Chapter 27 (commencing with Section 24600), inclusive, of Part 13 of Division 1 of Title 1.

44927. The governing board of any school district, a county board of education, or the Department of Education may execute a contract with any California teacher-training institution whereby certificated personnel of the school district, county, or the Department of Education may be assigned to the teacher-training institution for full-time or part-time duty for a period not to exceed one year.

Any teacher-training institution in California may execute a contract with the governing board of any school district, a county board of education, or the Board of Education whereby certificated personnel of the institution may be assigned to school districts, county boards of education, or the Department of Education for full-time or part-time duty for a period not to exceed one year.

Any such contract shall provide for the payment, by the entity to which a person is assigned to the employer, of a sum equivalent to

the salary and other employment costs of any such employee. In place of such payment, the contract may provide for the exchange of certificated personnel between the district, county, or Department of Education and the teacher-training institution. Any such employee shall retain his status as an employee of the school district, county, Department of Education, or teacher-training institution from which he is assigned in all respects during the period of such assignment.

### Article 3. Resignations, Dismissals, and Leaves of Absence

44930. Governing boards of school districts shall accept the resignation of any employee and shall fix the time when the resignation takes effect, which shall not be later than the close of the school year during which the resignation has been received by the board.

44931. Whenever any certificated employee of any school district who, at the time of his resignation, was classified as permanent, is reemployed within 39 months after his last day of paid service, the governing board of the district shall, disregarding the break in service, classify him as, and restore to him all of the rights, benefits and burdens of, a permanent employee, except as otherwise provided in this code; provided, that time spent in active military service, as defined in Section 44800, subsequent to the last day of paid service shall not count as part of the aforesaid 39-month period; and provided further, that any such employee who has engaged in active military service subsequent to his last paid service and who resigned more than 39 months prior to October 1, 1949, shall be deemed to have complied with all requirements of this section if he is or has been reemployed before July 1, 1950.

44932. No permanent employee shall be dismissed except for one or more of the following causes:

- (a) Immoral or unprofessional conduct.
- (b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.
- (c) Dishonesty.
- (d) Incompetency.
- (e) Evident unfitness for service.
- (f) Physical or mental condition unfitting him to instruct or associate with children.
- (g) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him.
- (h) Conviction of a felony or of any crime involving moral turpitude.
- (i) Violation of Section 51530 of this code or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the

Statutes of 1947.

(j) Violation of any provision in Sections 7001 to 7007, inclusive, of this code.

(k) Knowing membership by the employee in the Communist Party.

44933. A permanent employee may be dismissed on grounds of unprofessional conduct consisting of acts or omissions other than those specified in Section 44932, but any such charge shall specify instances of behavior deemed to constitute unprofessional conduct.

44934. Upon the filing of written charges, duly signed and verified by the person filing them, with the governing board of the school district, or upon a written statement of charges formulated by the governing board, charging that there exists cause for the dismissal of a permanent employee of the district, the governing board may, upon majority vote, except as provided in this article if it deems the action necessary, give notice to the permanent employee of its intention to dismiss him at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any written statement of charges of unprofessional conduct or incompetency shall specify instances of behavior and the acts or omissions constituting the charge so that the teacher will be able to prepare his defense. It shall, where applicable, state the statutes and rules which the teacher is alleged to have violated, but it shall also set forth the facts relevant to each occasion of alleged unprofessional conduct or incompetency.

44935. No report on the fitness of a teacher in a dismissal proceeding shall be received from a statewide professional organization by a governing board unless the teacher shall have been given, prior to the preparation of the report in its final form, the opportunity to submit in writing his or her comments on the report and unless a copy of the report in final form is given to the teacher investigated at least 10 days prior to its submission to the board.

Such a report shall not be distributed other than to the governing board and those persons participating in its preparation, unless the teacher does not demand a hearing as provided by Section 44937.

44936. The notice shall not be given between May 15th and September 15th in any year. It shall be in writing and be served upon the employee personally or by United States registered mail addressed to him at his last known address. A copy of the charges filed, containing the information required by Section 11503 of the Government Code, together with a copy of the provisions of this article, shall be attached to the notice.

44937. If the employee does not demand a hearing by filing a written request for hearing with the governing board, he may be dismissed at the expiration of the 30-day period.

44938. The governing board of any school district shall not act upon any charges of unprofessional conduct or incompetency unless during the preceding term or half school year prior to the date of the

filing of the charge, and at least 90 days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the unprofessional conduct or incompetency, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his faults and overcome the grounds for such charge. The written notice shall include the evaluation made pursuant to Article 11 (commencing with Section 44660) of Chapter 3 of this part, if applicable to the employee. "Unprofessional conduct" and "incompetency" as used in this section means, and refers only to, the unprofessional conduct and incompetency particularly specified as a cause for dismissal in Sections 44932 and 44933 and does not include any other cause for dismissal specified in Section 44932.

44939. Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of the district with immoral conduct, conviction of a felony or of any crime involving moral turpitude, with incompetency due to mental disability, with willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district, with violation of Section 51530, with knowing membership by the employee in the Communist Party or with violation of any provision in Sections 7001 to 7007, inclusive, the governing board may, if it deems such action necessary, immediately suspend the employee from his duties and give notice to him of his suspension, and that 30 days after service of the notice, he will be dismissed, unless he demands a hearing.

If the permanent employee is suspended upon charges of knowing membership by the employee in the Communist Party or for any violation of Section 7001, 7002, 7003, 7006, 7007, or 51530, he may within 10 days after service upon him of notice of such suspension file with the governing board a verified denial, in writing, of the charges. In such event the permanent employee who demands a hearing within the 30-day period shall continue to be paid his regular salary during the period of suspension and until the entry of the decision of the Commission on Professional Competence, if and during such time as he furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him during the period of suspension in case the decision of the Commission on Professional Competence is that he shall be dismissed. If it is determined that the employee may not be dismissed, the school board shall reimburse the employee for the cost of the bond.

44940. Whenever any certificated employee of a school district is charged with the commission of any sex offense as defined in Section 44010 by complaint, information or indictment filed in a court of

competent jurisdiction, the governing board of the school district shall immediately place the employee upon compulsory leave of absence for a period of time extending for not more than 10 days after the date of the entry of the judgment in the proceedings. The governing board of the school district may extend the compulsory leave of absence of the employee beyond such period by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his regular salary during the period of his compulsory leave of absence if and during such time as he furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him during the period of the compulsory leave of absence in case the employee is convicted of such charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against him are dismissed, the school district shall reimburse the employee for the cost of the bond upon his return to service in the school district.

If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him are dismissed, the school district shall pay to the employee his full compensation for the period of the compulsory leave of absence upon his return to service in the school district.

Whenever any certificated employee of a school district is charged with the commission of any narcotics offense as defined in Section 12912.5, or a violation of subdivision 1 of Section 261 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section.

44941. The notice of suspension and intention to dismiss, shall be in writing and be served upon the employee personally or by United States registered mail addressed to the employee at his last known address. A copy of the charges filed, containing the information required by Section 11503 of the Government Code, together with a copy of the provisions of this article, shall be attached to the notice. If the employee does not demand a hearing within the 30-day period,

he may be dismissed upon the expiration of 30 days after service of the notice.

44942. (a) Any certificated employee may be suspended or transferred to other duties by the governing board if the board has reasonable cause to believe that the employee is suffering from mental illness of such a degree as to render him incompetent to perform his duties.

(b) The governing board shall forthwith, upon any suspension or transfer hereunder, give to the employee a written statement of the facts giving rise to the board's belief, and an opportunity to appear before the board within 10 days to explain or refute the charges.

(c) If, after the employee's appearance before the board, the board decides to continue the suspension or transfer, or if the employee chooses not to appear before the board, the employee shall then be offered, in writing, the opportunity of being examined by a panel of three psychiatrists selected by him from a list of psychiatrists to be provided by the board. To assist the panel in making their determination, the governing board shall supply to the panel, prior to the date scheduled for the psychiatric examination, a list of the duties of the position from which the employee was suspended or transferred. The employee shall continue to receive his regular salary and all other benefits of employment during the period dating from his suspension to the filing of the report of the panel with the governing board.

(d) The psychiatric examination shall be conducted at school district expense within 15 days of any suspension or transfer ordered hereunder. The employee shall submit to the examination, but shall be entitled to be represented by a psychiatrist or physician of his own choice, and any report of the psychiatrist or physician selected by him shall be filed with the panel at the request of the employee.

A written report of the panel on the examination of the suspended or transferred employee shall be submitted to the governing board within 10 days after completion of the examination. A copy shall be supplied to the employee upon request. The report shall contain a finding on whether the employee is suffering from mental illness of such a degree as to render him incompetent to perform his duties.

(e) If a majority of the panel conclude that the employee should be permitted to return to his duties, no written record of the suspension or of the determination of the panel shall be retained, and in all respects any written record concerning the employee shall appear as it did before the suspension was made.

(f) If a majority of the panel find in their report that the employee is suffering from mental illness of such a degree as to render him incompetent to perform his duties, the governing board may, upon receipt of the report, place the employee on mandatory sick leave of absence. Any mandatory sick leave of absence imposed under this section shall not exceed two years, during which period the employee shall be entitled to sick leave, hospital and medical benefits which he accrued during his employment by the governing

board but only to the extent of such accrual.

(g) Any employee placed on mandatory sick leave of absence pursuant to this section may in writing immediately demand a hearing. Thereupon the governing board shall file a complaint in the superior court of the county in which the school district or the major part thereof is located, setting forth the charges against the employee and asking that the court inquire into the charges and determine whether or not the charges are true, and if true, whether they constitute sufficient grounds for placing the employee on mandatory sick leave of absence, and for a judgment pursuant to its findings.

(h) If the court finds that the employee was not at the time of the suspension incompetent to perform his assigned duties and should not have been placed on mandatory sick leave of absence, the employee shall be immediately reinstated to the same or a substantially similar position with full back salary, and any written record of the suspension or transfer or any report of the panel shall be destroyed.

(i) If the court confirms the placing of the employee on mandatory sick leave, or if the employee does not seek a hearing, then upon written request of the employee made not earlier than six months nor later than two years after the date he was placed on mandatory sick leave of absence, a new panel of three psychiatrists shall be convened by, and at the expense of, the governing board to review its original conclusion. If the original conclusion is not changed by the new panel as a result of such review, the employee shall be continued on the mandatory sick leave of absence except that when the employee's total period of absence exceeds two years, the governing board shall either rescind its action and reinstate the employee to the same or a substantially similar position, or shall serve the employee with a notice of intention to dismiss him, and proceed according to Section 44943.

(j) If a majority of the new panel concludes in its report, or any subsequent review thereof, that the suspended employee or employee on mandatory sick leave of absence should be permitted to return to his duties, or if the court so concludes, the governing board shall take immediate action to restore the employee to the position from which he was suspended or transferred or to a substantially similar position.

(k) Every hearing and action by or before the governing board pursuant to this section shall be in executive session, and no decision, action, or occurrence therein shall be made public, unless the employee so requests in writing.

(l) Nothing in this section shall be construed to supersede Section 44949.

44943. When any employee who has been served with notice of the governing board's intention to dismiss him demands a hearing, the governing board shall have the option either (a) to rescind its action, or (b) schedule a hearing on the matter.

44944. (a) In the event a hearing is requested by the employee,

the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, provided, however, that the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency therein, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to such continuance; provided, however, that such extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be a hearing

officer of the State Office of Administrative Procedure who shall be chairman and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, such failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection.

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) The decision of the Commission on Professional Competence shall be made by a majority vote and the commission shall prepare a written decision containing findings of fact, determinations of issues and a disposition either:

- (1) That the employee should be dismissed.
- (2) That the employee should not be dismissed.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section.

The governing board and the employee shall have the right to be represented by counsel.

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district in California, such member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district.

(e) If the governing board orders the dismissal of the employee, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the hearing officer; and the state shall pay any costs incurred under subdivision (d) (2) above, and the reasonable expenses, as determined by the hearing officer,

of the member selected by the governing board and the member selected by the employee, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee. The State Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations and forms for the submission of such claims. The employee and the governing board shall pay their own attorney fees.

If the governing board orders that the employee not be dismissed, the governing board shall pay all expenses of the hearing, including the cost of the hearing officer, and any costs incurred under subdivision (d)(2) above, and the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable attorney fees incurred by the employee.

44945. The decision of the Commission on Professional Competence may, on petition of either the governing board or the employee, be reviewed by a court of competent jurisdiction in the same manner as a decision made by a hearing officer under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The court, on review, shall exercise its independent judgment on the evidence. The proceeding shall be set for hearing at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence is given by law.

44946. If the employee has been suspended pending the hearing, he shall be reinstated within five days after the governing board's decision in his favor, and shall be paid full salary by the governing board for the period of his suspension.

44947. If an employee is dismissed for immoral conduct or conviction of a felony or crime involving moral turpitude, the governing board shall transmit to the State Board of Education and to the county board of education which issued the certificate under which the employee was serving at the time of his dismissal, a copy of the reporter's transcript of the hearing accompanied by a request that any certificate issued by the county board of education to the employee be revoked if the employee is not reinstated upon appeal.

44948. Governing boards of school districts shall dismiss probationary employees during the school year for cause only, as in the case of permanent employees.

44949. (a) No later than March 15 and before an employee is given notice by the governing board that his services will not be required for the ensuing year, the governing board and the employee shall be given written notice by the superintendent of the district or his designee, or in the case of a district which has no superintendent by the clerk or secretary of the governing board, that it has been recommended that such notice be given to the employee,

and stating the reasons therefor.

If a probationary employee has been in the employ of the district for less than 45 days on March 15, the giving of such notice may be deferred until the 45th day of employment and all time period and deadline dates herein prescribed shall be coextensively extended.

Until the employee has requested a hearing as provided in subdivision (b) or has waived his right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties; however, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(b) The employee may request a hearing to determine if there is cause for not reemploying him for the ensuing year. A request for a hearing must be in writing and must be delivered to the person who sent the notice pursuant to subdivision (a), on or before a date specified therein, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his failure to do so shall constitute his waiver of his right to a hearing. The notice provided for in subdivision (a) shall advise the employee of the provisions of this subdivision.

(c) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency therein, except that: (1) the respondent shall file his notice of defense, if any, within five days after service upon him of the accusation and he shall be notified of such five-day period for filing in the accusation; (2) the discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate; and (3) the hearing shall be conducted by a hearing officer who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the hearing officer shall be binding on the governing board or on any court in future litigation. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the hearing officer,

shall be paid by the governing board from the district funds. The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section.

(d) The governing board's determination not to reemploy a probationary employee for the ensuing school year shall be for cause only. The determination of the governing board as to the sufficiency of the cause pursuant to this section shall be conclusive, but the cause shall relate solely to the welfare of the schools and the pupils thereof and provided that cause shall include termination of services for the reasons specified in Section 44955. The decision made after the hearing shall be effective on May 15 of the year the proceeding is commenced.

(e) Notice to the probationary employee by the governing board that his service will not be required for the ensuing year, shall be given no later than May 15.

(f) If a governing board notifies a probationary employee that his services will not be required for the ensuing year, the board shall, within 10 days after delivery to it of the employee's written request, provide him with a statement of its reasons for not reemploying him for the ensuing school year.

(g) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.

(h) In the event that the governing board does not give notice provided for in subdivision (e) of this section on or before May 15, the employee shall be deemed reemployed for the ensuing school year.

(i) If after request for hearing pursuant to subdivision (b) any continuance is granted pursuant to Government Code Section 11524, the dates prescribed in subdivisions (c), (d), (e) and (h) which occur on or after the date of granting the continuance shall be extended for a period of time equal to such continuance.

44950. Whenever the governing board of any school district dismisses an employee pursuant to Section 44948 or gives notice to an employee that his services will not be required for the ensuing year pursuant to Section 44949, the governing board shall on or before September 1 of the next succeeding school year transmit to the Department of Education a statement of the reasons for such dismissal or failure to rehire. The statement of reasons should be a true and exact copy of the statement of cause for dismissal or reasons for dismissal given the employee under Section 44948 or 44949 if such a statement is given, and the governing board shall so certify.

The statement so transmitted to the Department of Education shall be treated as confidential matter by the department. Such statements shall be referred to only to the extent necessary for accomplishment of the objectives of this section and shall be for all purposes the confidential property of the department.

The department shall prepare and maintain, from the statements so transmitted, a descriptive and statistical analysis, by category of causes or reasons of dismissal or failure to rehire, and shall report thereon to the Legislature each general session of the Legislature.

44951. Unless a certificated employee holding a position requiring an administrative or supervisory credential is sent written notice deposited in the United States registered mail with postage prepaid and addressed to his last known address by March 15 that he may be released from his position for the following school year or unless the signature of such an employee is obtained by March 15 on such written notice that he may be released from his position for the following year, he shall be continued in such position. The provisions of this section do not apply to a certificated employee who holds a written contract with an expiration date beyond the current school year, or to a certificated employee holding a position that is funded for less than a school year, or to a certificated employee assigned to an acting position whose continuing right to hold this position depends on his being selected from an eligible list established for the position, or to the termination of employment pursuant to Section 44955. A certificated employee serving under Section 35042 shall be notified by March 1 if the governing board determines on an individual basis that he may be released for the following school year.

44952. The provisions of Section 44949 shall not be construed as in any way modifying or affecting the provisions of Section 44948.

44953. Governing boards of school districts may dismiss substitute employees at any time at the pleasure of the board.

44954. Governing boards of school districts may dismiss temporary employees requiring certification qualifications at the pleasure of the board. A temporary employee who is not dismissed during the first three school months, or in the case of migratory schools during the first four school months of the school term for which he was employed and who has not been classified as a permanent employee shall be deemed to have been classified as a probationary employee from the time his services as temporary employee commenced.

44955. No permanent employee shall be deprived of his position for causes other than those specified in Sections 44892, 44907 and 44923, and Sections 44932 to 44947, inclusive, and no probationary employee shall be deprived of his position for cause other than as specified in Sections 44948 and 44949, except in accordance with the provisions of Sections 44955 to 44961, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of

permanent employees in said district, the said governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, permanent as well as probationary, at the close of the school year; provided, that the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render.

Notice of such termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845 of this code. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he shall be deemed reemployed for the ensuing school year.

The board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

44956. Any permanent employee whose services have been terminated as provided in Section 44955 shall have the following rights:

1. For the period of 39 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, in the order of original employment as determined by the board in accordance with the provisions of Sections 44831 to 44855, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no probationary or other employee with less seniority shall be employed to render a service which said employee is certificated and competent to render.

2. The aforesaid right to reappointment may be waived by the employee, without prejudice, for not more than one school year, unless the board extends this right, but such waiver shall not deprive the employee of his right to subsequent offers of reappointment.

3. As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination, but the period of his absence shall not count as a part of the service required for retirement.

4. During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, be offered prior opportunity for substitute service during the absence of any other employee who has been granted a leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon the return to duty of said other employee, that the compensation he receives shall be not less than the amount he would receive if he were being reappointed, and that said substitute service shall not affect the retention of his previous classification and rights.

4a. During the period of the employee's preferred right to reappointment, the governing board of the district, if it is also the governing board of one or more other districts, may assign him to service, which he is certificated and competent to render, in said other district or districts; provided, that the compensation he receives therefor may in the discretion of the governing board be the same as he would have received had he been serving in the district from which his services were terminated, that his service in the said other district or districts shall be counted toward the period required for both state and local retirement, as defined by Section 22102, as though rendered in the district from which his services were terminated, and that no permanent employee in said other district or districts shall be displaced by him.

It is the intent of this subsection that the employees of a school district, the governing board of which is also the governing board of one or more other school districts, shall not be at a disadvantage as compared with employees of a unified school district.

5. At any time prior to the completion of one year after his return to service, he may continue or make up, with interest, his own contributions to any state or district retirement system, for the period of his absence, but it shall not be obligatory on state or district to match such contributions.

6. Should he become disabled or reach retirement age at any time before his return to service, he shall receive, in any state or district retirement system of which he was a member, all benefits to which he would have been entitled had such event occurred at the time of his termination of service, plus any benefits he may have qualified for thereafter, as though still employed.

44957. Any probationary employee whose services have been terminated as provided in Section 44955 shall have the following rights:

(a) For the period of 24 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, subject to the prior rights to reappointment by all permanent employees as set forth in Section 44956, in the order of original employment as determined by the governing board in accordance with the provisions of Sections 44831 to 44855, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees

who continued in service; provided, that no probationary or temporary employee with less seniority shall be employed to render a service which such employee is certificated and competent to render and provided that such an employee shall be given a priority over employees whose right to a position is derived pursuant to Section 44918.

(b) As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination; provided, however, that the period of his absence shall not be counted as a part of the service required for attaining permanent status in the district or, except as provided in subdivision (c), for retirement purposes.

(c) During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, and subject to the rights of permanent employees as set forth in Section 44956, be offered prior opportunity for substitute service during the absence of any other employee who has been granted leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon a return to duty of such other employee, that such substitute service shall not affect the retention of his previous classification and rights, and that such an employee shall be given a priority over employees whose right to a substitute position is derived pursuant to Section 44918.

(d) At any time prior to the completion of one year after his return to service, an employee reappointed under the provisions of this section may elect to continue or to reinstate his membership and interest in any state or district retirement system and to receive retirement benefits as if no absence from service had occurred. In the event of such election the employee shall pay into the retirement system the amount of his share of contribution and the district's share of contribution attributable to the period of absence and the amount of any contributions withdrawn, plus interest.

44958. If the services of any probationary employee are terminated, or if such employee is dismissed, because of a reduction in the attendance of pupils or the discontinuance of a particular kind of service, and such employee is reemployed within a period of 39 months from the last day of the school year within which his service was so terminated, or within 39 months after the cessation of hostilities, if such reduction in attendance or discontinuance of service was due to war conditions, the period of his absence shall not count as a part of the service required as a condition precedent to the classification of such employee as a permanent employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee.

Every such probationary employee who has been reemployed as

indicated in this section shall have all of the rights enumerated in Sections 44955 to 44961, inclusive, for permanent employees, except the right of reappointment, subject only to the prior rights of permanent employees.

The provisions of this section shall apply to any probationary employee who shall be or who shall have been dismissed or terminated after January 1, 1949, because of reduction in attendance or discontinuance of a particular kind of service.

44959. As to any permanent certificated employee whose services have been terminated because of the effect of wars in which the United States is engaged upon the attendance of pupils or upon the maintenance of a particular kind of service, the effective period covered by all rights enumerated in Section 44956 is extended until two years after the cessation of hostilities, and in addition thereto for a like period the said employees shall have the following rights:

1. He may voluntarily accept termination of service in other than the order of original employment and retain all of the other rights herein provided.

2. If he is engaged in any form of civilian or military war service, any credential or certificate he holds is continued in full force and effect until 90 days after the termination of his employment therein.

3. If, either before or after such termination, he engages in any form of war service for which provision is made in Section 44800 or elsewhere in the laws of this state, he shall retain all rights granted by such war service legislation as though still employed; provided, that the right to reappointment shall be in the order of original employment, as determined in accordance with the provisions of Sections 44844 and 44845.

The services of all permanent certificated employees dismissed since December 7, 1941, because of the effect of the wars upon attendance of pupils or the maintenance of service shall be deemed to have been terminated in accordance with the provisions of Section 44955, as amended, and said employees shall have all of the rights in this section provided.

44960. The services of any permanent certificated employee referred to in Section 44959 who has been appointed to substitute service in place of another employee who is on leave of absence for civilian or military war service may be terminated upon the return of said other employee from such leave of absence, but only at the end of the current semester or quarter and not less than 30 days after written notice that his services will no longer be required.

44961. In specifying or defining the rights of employees in Sections 44955 to 44961, inclusive, the effect of war refers to "war" as defined in Section 88.

44962. Governing boards of school districts may grant leaves of absence to persons employed in positions requiring certification qualifications.

44963. When any provision of this code expressly authorizes or requires the governing board of a school district to grant a leave of

absence for any purpose or for any period of time to persons employed in positions requiring certification qualifications, that express authorization or requirement does not deprive the governing board of the power to grant leaves of absence with or without pay to such employees for other purposes or for other periods of time, so long as the governing board does not deprive any employee of any leave of absence to which he is entitled by law.

44964. The governing board of any school district may provide for the leave of absence from duty and may grant compensation during the leave of absence to any employee of the district who is employed in a position requiring certification qualifications and who is compelled to absent himself from his duties because of accident or illness, whether or not the cause of absence arises out of and in the course of the employment of the employee, or because of quarantine which results from his contact with other persons having a contagious disease while performing his duties, or because of temporary inability to perform the services required of him because of illness, accident, or quarantine.

44965. The governing board of any school district shall provide for leave of absence from duty for any certificated employee of the district who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom. The length of the leave of absence, including the date on which the leave shall commence and the date on which the employee shall resume duties, shall be determined by the employee and the employee's physician.

Disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment by any school district.

Except as provided herein, written and unwritten employment policies and practices of any school district shall be applied to disability due to pregnancy or childbirth on the same terms and conditions applied to other temporary disabilities.

This section shall be construed as requiring the governing board of a school district to grant leave with pay only when it is necessary to do so in order that leaves of absence for disabilities caused or contributed to by pregnancy, miscarriage, or childbirth be treated the same as leaves for illness, injury, or disability.

44966. The governing board of any school district may grant any employee of the district employed in a position requiring certification qualifications, a leave of absence for not to exceed one year for the purpose of permitting study or travel by the employee which will benefit the schools and pupils of the district. The governing board may provide that such a leave of absence be taken in separate six-month periods or separate quarters rather than for a continuous one-year period, provided that the leave of absence for both of the separate six-month periods or any or all quarters shall be

commenced and completed within a three-year period. Any period of service by the individual intervening between the two separate six-month periods or separate quarters of the leave of absence shall comprise a part of the service required for a subsequent such leave of absence.

If any leave of absence commenced upon within three years prior to November 8, 1967, was taken in one or more separate periods of less than one year, the period of service intervening between such separate periods shall comprise a part of the service required for a subsequent such leave of absence.

44967. No leave of absence shall be granted to any employee under Section 44966 who has not rendered service to the district for at least seven consecutive years preceding the granting of the leave, and not more than one such leave of absence shall be granted in each seven-year period. The governing board granting the leave of absence may, subject to the rules and regulations of the State Board of Education, prescribe the standards of service which shall entitle the employee to the leave of absence. No absence from the service of the district under a leave of absence, other than a leave of absence granted pursuant to Section 44966, granted by the governing board of the district shall be deemed a break in the continuity of service required by this section, and the period of such absence shall not be included as service in computing the seven consecutive years of service required by this section. Service under a national recognized fellowship or foundation approved by the State Board of Education, for a period of not more than one year, for research, teaching or lecturing shall not be deemed a break in continuity of service, and the period of such absence shall be included in computing the seven consecutive years of service required by this section.

44968. Every employee granted a leave of absence pursuant to Section 44966 may be required to perform such services during the leave as the governing board of the district and the employee may agree upon in writing, and the employee shall receive such compensation during the period of the leave as the governing board and the employee may agree upon in writing, which compensation shall be not less than the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. However, in lieu of such difference, the board may pay one-half of the salary of the employee on leave or any additional amount up to and including the full salary of the employee on leave.

44968.5. An employee granted a leave of absence pursuant to Section 44966 or 44967 may agree in writing with the governing board of the school district not to receive compensation during the period of the leave.

44969. Every employee, as a condition to being granted a leave of absence pursuant to Section 44966, shall agree in writing to render a period of service in the employ of the governing board of the district following his return from the leave of absence which is equal

to twice the period of the leave. Compensation granted by the governing board to the employee on leave for less than one year may be paid during the first year of service rendered in the employ of the governing board following the return of the employee from the leave of absence or, in the event that the leave is for a period of one year, such compensation may be paid in two equal annual installments during the first two years of such service following the return of the employee. The compensation shall be paid the employee while on the leave of absence in the same manner as if the employee were teaching in the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the employee fails to render the agreed upon period of service in the employ of the governing board following the return of the employee from the leave of absence. The bond shall be exonerated in event the failure of the employee to return and render the agreed upon period of service is caused by the death or physical or mental disability of the employee. If the governing board finds and by resolution declares that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render the agreed upon period of service therein following his return from the leave, the governing board in its discretion may waive the furnishing of the bond and pay the employee on leave in the same manner as though a bond is furnished.

44970. If the employee does not serve for the entire period of service agreed upon under Section 44969, the amount of compensation paid for the leave of absence shall be reduced by an amount which bears the same proportion to the total compensation as the amount of time which was not served bears to the total amount of time agreed upon. If the employee furnished an indemnity bond, upon default, the proceeds of the bond shall be divided between the employee and the school district in the same proportion as the actual amount of time served bears to the amount of time agreed upon.

44971. If a unified school district which includes a community college is reorganized so that a community college district is formed in addition to the unified school district, an employee who takes his leave from the unified school district before the reorganization may satisfy the two years' service required by Section 44969 by serving for two years in either the community college district or the unified school district, as they exist after the reorganization, or in both.

44972. Where one governing board serves as the governing board of two or more separate districts, an employee may fulfill the service requirements provided in Section 44967 or in 44969, or both, by service in any one or more of the districts under the jurisdiction of such governing board. At the option of the governing board the provisions of this section may apply in whole or in part to service rendered prior to October 1, 1949.

44973. At the expiration of the leave of absence of the employee, he shall, unless he otherwise agrees, be reinstated in the position held

by him at the time of the granting of the leave of absence.

44974. Both the governing board of any district and the district shall be freed from any liability for the payment of any compensation or damages provided by law for the death or injury of any employee of the district employed in a position requiring certification qualifications when the death or injury occurs while the employee is on any leave of absence granted under the provisions of Sections 44962 to 44976, inclusive.

44975. No leave of absence when granted to a probationary employee shall be construed as a break in the continuity of service required for the classification of the employee as permanent. The time during which the leave of absence is taken shall not be considered as employment within the meaning of Sections 44882 to 44891, inclusive, Sections 44893 to 44900, inclusive, Sections 44901 to 44906, inclusive, and Sections 44908 to 44919, inclusive.

44976. When any school or other place of employment shall have been transferred from one district to another, any certificated employees who transfer with said school or other place of employment shall be entitled to retain all sickness and injury, sabbatical and other leave rights accumulated by service prior to such transfer and the district to which such school or other place of employment has been transferred shall recognize or grant such rights, including any accumulated rights allowed by the governing board of the district from which the school or other place of employment was transferred, as fully as if there had been no change in the district maintaining such school or other place of employment.

44977. When a person employed in a position requiring certification qualifications is absent from his duties on account of illness or accident for a period of five school months or less, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due him for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill his position during his absence or, if no substitute employee was employed, the amount which would have been paid to the substitute had he been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

The governing board of every school district shall adopt a salary schedule for substitute employees. The salary schedule shall indicate a salary for a substitute for all categories or classes of certificated employees of the district.

Excepting in a district the governing board of which has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any month shall be less than the salary due the employee absent from his duties.

When a person employed in a position requiring certification qualifications is absent from his duties on account of illness for a period of more than five school months, or when a person is absent from his duties for a cause other than illness, the amount deducted

from the salary due him for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. Such rules and regulations shall not conflict with rules and regulations of the State Board of Education.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons acquiring certification qualifications.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

44978. Every certificated employee employed five days a week by a school district shall be entitled to 10 days' leave of absence for illness or injury and such additional days in addition thereto as the governing board may allow for illness or injury, exclusive of all days he is not required to render service to the district, with full pay for a school year of service. A certificated employee employed for less than five schooldays a week shall be entitled, for a school year of service, to that proportion of 10 days' leave of absence for illness or injury as the number of days he is employed per week bears to five and is entitled to such additional days in addition thereto as the governing board may allow for illness or injury to certificated employees employed for less than five schooldays a week. Pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking such leave by the employee and such leave of absence may be taken at any time during the school year. If such employee does not take the full amount of leave allowed in any school year under this section the amount not taken shall be accumulated from year to year with such additional days as the governing board may allow.

The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purposes of this section. Such rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized church or denomination.

Nothing in this section shall be deemed to modify or repeal any provision of law contained in Chapter 3 (commencing with Section 3110) of Division 4 of the Health and Safety Code.

The provisions of Section 44977 relating to compensation, shall not apply to the first 10 days of absence on account of illness or accident of any such employee employed five days a week or to the proportion of 10 days of absence to which such employee employed less than five days a week is entitled hereunder on account of illness or accident or to such additional days granted by the governing board. Any employee shall have the right to utilize sick leave provided for in this

section and the benefit provided by Section 44977 for absences necessitated by pregnancy, miscarriage, childbirth, and recovery therefrom.

(Amended by Stats. 1976, Ch 1011.)

[ORIGINAL SECTION]

44978 Every certificated employee employed five days a week by a school district shall be entitled to 10 days' leave of absence for illness or injury and such additional days in addition thereto as the governing board may allow for illness or injury, exclusive of all days he is not required to render service to the district, with full pay for a school year of service. A certificated employee employed for less than five schooldays a week shall be entitled, for a school year of service, to that proportion of 10 days' leave of absence for illness or injury as the number of days he is employed per week bears to five and is entitled to such additional days in addition thereto as the governing board may allow for illness or injury to certificated employees employed for less than five school days a week; pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking such leave by the employee and such leave of absence may be taken at any time during the school year. If such employee does not take the full amount of leave allowed in any school year under this section the amount not taken shall be accumulated from year to year with such additional days as the governing board may allow.

The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purposes of this section. Such rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized church or denomination.

Nothing in this section shall be deemed to modify or repeal any provision of law contained in Chapter 3 (commencing with Section 3110) of Division 4 of the Health and Safety Code.

The provisions of Section 44977 relating to compensation, shall not apply to the first 10 days of absence on account of illness or accident of any such employee employed five days a week or to the proportion of 10 days of absence to which such employee employed less than five days a week is entitled hereunder on account of illness or accident or to such additional days granted by the governing board. Any employee shall have the right to utilize sick leave provided for in this section and the benefit provided by Section 44977 for absences necessitated by pregnancy, miscarriage, childbirth, and recovery therefrom.

44979. Any certificated employee of any school district who has been an employee of that district for a period of one school year or more and who accepts a position requiring certification qualifications in another school district at any time during the second or any succeeding school year of his employment with the first district, or who, within the school year succeeding the school year in which such employment is terminated, signifies acceptance of his election or employment in a position requiring certification qualifications in another school district, shall have transferred with him to the second district the total amount of leave of absence for illness or injury to which he is entitled under Section 44978. The State Board of Education shall adopt rules and regulations prescribing the manner in which the first district shall certify to the second district the total amount of leave of absence for illness or injury to be transferred. No governing board shall adopt any policy or rule, written or unwritten, which requires any certificated employee transferring to its district to waive any part or all of the leave of

absence which he may be entitled to have transferred in accordance with this section.

44980. Any certificated employee of any school district who accepts a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of any county superintendent of schools who accepts a position requiring certification qualifications in a school district or office of another county superintendent of schools; or, any person employed by the State Department of Education in a position requiring certification qualifications or an employee of the office of the Chancellor of the California Community Colleges who accepts a position requiring certification qualifications in any school district or office of any county superintendent of schools; or, any certificated employee of the Commission for Teacher Preparation and Licensing who accepts a position requiring certification qualifications in any school district or office of any county superintendent of schools; shall have transferred with him to the second position his accumulated leave of absence for illness or injury. The amount of such leave to be transferred shall be determined in the same manner as provided in Section 44979. All other provisions of Section 44979 shall also apply to the employees and employers described in this section.

44981. Any days of leave of absence for illness or injury allowed pursuant to Section 44978 may be used by the employee, at his election, in cases of personal necessity. The governing board of each school district and each office of county superintendent of schools shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for purposes of this section.

The employee shall not be required to secure advance permission for leave taken for any of the following reasons:

- (a) Death or serious illness of a member of his immediate family.
- (b) Accident, involving his person or property, or the person or property of a member of his immediate family.

No such accumulated leave in excess of six (6) days may be used in any school year for the purposes enumerated in this section.

44982. Any person employed by a school district or by a county superintendent of schools in a position requiring certification qualifications who accepts a professional education position in the Department of Education, the appointment to which is, or is intended to become, permanent, shall have transferred with him to the Department of Education his accumulated leave of absence for illness or injury. The amount of such leave to be transferred shall be determined in the same manner as provided in Section 44979, except in no case may the transferred accumulated sick leave exceed that amount of accumulated sick leave that the person would have earned as an employee in the system to which he is transferring. All other provisions of Section 44979 shall also apply to the employees and employers described in this section.

44983. Section 44977 shall not apply to any school district which adopts and maintains in effect a rule which provides that when a

person employed in a position requiring certification qualifications is absent from his duties on account of illness or accident for a period of five school months or less whether or not the absence arises out of or in the course of the employment of the employee, he shall receive 50 percent or more of his regular salary during the period of such absence and nothing in Section 44977 shall be construed as preventing the governing board of any district from adopting any such rule.

Notwithstanding the foregoing, when a person employed in a position requiring certification qualifications is absent from his duties on account of illness for a period of more than five school months, or when a person is absent from his duties for a cause other than illness, the amount deducted from the salary due him for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. Such rules and regulations shall not conflict with rules and regulations of the State Board of Education.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons requiring certification qualifications.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

44984. Governing boards of school districts shall provide by rules and regulations for industrial accident and illness leaves of absence for all certificated employees. The governing board of any district which is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after the effective date of this section shall provide by rules and regulations for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes as provided in Section 4064.

Such rules or regulations shall include the following provisions:

a. Allowable leave shall be for not less than 60 days during which the schools of the district are required to be in session or when the employee would otherwise have been performing work for the district in any one fiscal year for the same accident;

b. Allowable leave shall not be accumulated from year to year;

c. Industrial accident or illness leave shall commence on the first day of absence;

d. When a certificated employee is absent from his duties on account of an industrial accident or illness, he shall be paid such portion of the salary due him for any month in which the absence occurs as, when added to his temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code, will result in a payment to him of not more than his full salary;

The phrase "full salary" as utilized in this subdivision shall be

computed so that it shall not be less than the employee's "average weekly earnings" as that phrase is utilized in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.

e. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award;

f. When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him for the same illness or injury.

Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 44977, 44978 and 44983, and for the purposes of each of these sections, his absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave, provided that if the employee continues to receive temporary disability indemnity, he may elect to take as much of his accumulated sick leave which, when added to his temporary disability indemnity, will result in a payment to him of not more than his full salary.

The governing board may, by rule or regulation, provide for such additional leave of absence for industrial accident or illness as it deems appropriate.

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his industrial accident or illness. The district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants.

Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board pursuant to this section an employee shall be entitled to industrial accident or illness leave as provided in this section but without limitation as to the number of days of such leave.

44985. Every person employed by a school district in a position requiring certification qualifications is entitled to a leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this code or provided by the governing board of the district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this

section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

#### Article 4. Increased Cost of Dismissal Procedure

45020. The amount determined pursuant to subdivision (g) of Section 42233 shall be adjusted to allow for any increased costs to a school district which may be incurred by it in carrying out the requirements imposed by the amendments made to Section 44949 by the act enacting this section.

#### Article 5. Salaries

45021. Females employed as teachers in the public schools of the state shall, in all cases, receive the same compensation as is allowed male teachers for like services, when holding the same grade certificates.

45022. The governing board of any school district shall fix and order paid the compensation of persons in public school service requiring certification qualifications employed by the board unless otherwise prescribed by law.

45023. The governing board of each school district shall adopt and cause to be printed and made available to each certificated employee a schedule of salaries to be paid.

45023.5. The governing board of each elementary, high, and unified school district shall provide equal salaries to all certificated employees for work performed beyond the instructional day. Such compensation, whether paid on an hourly or monthly basis, or on a flat rate basis or otherwise, shall be paid equally to employees based on the concept of like pay for comparable hours and responsibilities. Under no condition shall certificated employees who are working comparable hours and responsibilities beyond the instructional day be paid differently based on the employee's sex. Nothing in this section shall be construed as prohibiting a school district from establishing a salary schedule based on experience for persons who are employed for afterschool work.

Work performed beyond the instructional day includes, but is not limited to, all activities, whether athletic or academic, performed by the employee which are not part of the normal instructional day duties.

45024. Every person employed by the district in a position requiring certification qualifications in a day school of the district for not less than the minimum schoolday for each day the schools of the district are maintained during the school year is a full-time employee and his compensation shall be fixed accordingly. Governing boards may require persons employed in positions requiring certification

qualifications to serve a longer period time in each schoolday than the minimums defined in Sections 46112 to 46116, inclusive, and 46141, in order to be compensated as full-time employees, provided all such employees in similar grades or levels are similarly required to serve such longer periods of time, and provided that the duties required of such persons during such extended time shall be directly related to and restricted to their normal assignment. With respect to a unified school district, for the purposes of this section all day kindergarten and elementary schools of the unified school district shall be deemed to be maintained by one district and all day high schools of the unified school district shall be deemed to be maintained by a second and separate district.

45025. Any person employed by a district in a position requiring certification qualifications who serves less than the minimum schoolday as defined in Sections 46112 to 46116, inclusive, or 46141 may specifically contract to serve as a part-time employee. In fixing the compensation of part-time employees, governing boards shall provide an amount which bears the same ratio to the amount provided full-time employees as the time actually served by such part-time employees bears to the time actually served by full-time employees of the same grade or assignment. This section shall not apply to any person classified as a temporary employee under Sections 44919 and 44888, or any person employed as a part-time employee above and beyond his employment as a full-time employee in the same school district.

45026. City boards of education shall have full power to fix the salary of all employees.

45027. Any supervising principal shall receive such compensation from each board of trustees jointly employing him as may be agreed upon by the boards joining in his employment.

45028. Effective July 1, 1970, each person employed by a district in a position requiring certification qualifications except a person employed in a position requiring administrative or supervisory credentials, shall be classified on the salary schedule on the basis of uniform allowance for years of training and years of experience. Employees shall not be placed in different classifications on the schedule, nor paid different salaries, solely on the basis of the respective grade levels in which such employees serve.

In no case shall the governing board of a school district draw orders for the salary of any teacher in violation of this section, nor shall any superintendent draw any requisition for the salary of any teacher in violation thereof.

This section shall not apply to teachers of special day and evening classes in elementary schools, teachers of special classes for elementary pupils, teachers of special day and evening high school classes and substitute teachers.

45029. Teachers in an opportunity school or opportunity classes shall be paid in the same manner as in other elementary schools of the city, county, or the school district in which the

opportunity school or opportunity classes are situated.

45030. The governing board of any school district may employ such substitute employees of the district as it deems necessary and shall adopt and make public a salary schedule setting the daily or pay period rate or rates for substitute employees.

This section shall not be construed as modifying or repealing any law fixing a minimum annual salary for employees of district.

45031. The salaries of home teachers shall be paid from the city or district special school funds.

45032. The governing board of a school district may at any time during any school year increase the salaries of persons employed by the district in positions requiring certification qualifications, such increase to be effective on any date ordered by the governing board.

45033. The governing board of any school district shall not decrease the annual salary of a person employed by the district in a position requiring certification qualifications for failure to meet any requirement of the district that such person complete additional educational units, course of study, or work in any college or university or any equivalent thereof.

45034. No order for a warrant, and no warrant drawn pursuant to Section 42647, shall be drawn in favor of any person employed in a position requiring certification qualifications, unless such person is at the time the holder of a proper certification document in full force for the full time for which the requisition or warrant, as the case may be, is drawn, and on file or registered as required by law at the time and unless he is employed by the governing board of the unified school district, or district with over 10,000 average daily attendance or by the county superintendent of schools as provided in this code.

45035. If any school district fails to pay the salary of any person employed by it in a position requiring certification qualifications who has on file a contract of employment held valid by the legal adviser of the county superintendent of schools having jurisdiction over the district, such county superintendent of schools may transfer sufficient money from the funds of the district to the county school service fund and pay such salary from such fund.

45036. Whenever, on or after September 15, 1961, a person has rendered service in a position requiring certification qualifications, or the governing board of a district has employed a person in a position requiring certification qualifications, or the county superintendent has drawn an order for a warrant in favor of a person in a position requiring certification qualifications, for a period of service during which the person did not have a valid credential required for such position in force as required by law, and when as a result thereof the employment of the person to render such service, the rendering of such service, the inclusion of the attendance of pupils taught by the person in the average daily attendance of the district, or the drawing of the order warrant for the service of such person, is in violation of Sections 46300, 44830, 45034 or any other provision of this code, such employment, rendering of service,

inclusion of attendance, or drawing of the order for the warrant shall be deemed fully legal for all purposes if the State Board of Education approves thereof in accordance with this section.

The State Board of Education shall adopt rules and regulations to establish procedures for a review in such cases and shall determine whether the rendering of such service shall be approved and made fully legal for all purposes. If the board gives its approval to the rendering of such service, then such employment, inclusion of attendance, and drawing of the order for the warrant shall be automatically approved and made fully legal for all purposes.

The board shall not approve of the rendering of such service unless it determines that the person rendering the service had, in fact, the necessary qualifications, during the period of service in question, for the credential required by law for the position in which the service was rendered, and unless a valid credential required for such position has been issued to such person prior to review and action by the board.

In amending this section at the 1964 First Extraordinary Session of the Legislature, it is the intent of the Legislature to allow the State Board of Education to review cases involving service rendered prior to the effective date of such amendment in accordance with the provisions of this section as amended by such session.

45037. Notwithstanding any other provision of law, if prior to September 18, 1959 any certificated employee of any school district is discharged from a position requiring certification qualifications contrary to the provisions of this code and is thereafter restored to his position pursuant to judicial proceedings in a court of competent jurisdiction, the governing board of the school district may pay such employee an amount equal to the amount which would have been paid to such employee from the date of such discharge to the date of his restoration to his position, irrespective of whether such employee was the holder of a valid certification document during the period of such unlawful removal from his position.

45038. The governing board of any school district may arrange to pay the persons in positions requiring certification qualifications employed by it, or any one or more of such employees or one or more groups or categories of such employees, in either 10 or 11 or 12 equal payments instead of by the school month.

In lieu thereof, orders for the payment of salary, and payroll orders for the payment of salary and warrants for the payment of salary of employees employed in positions requiring certification qualifications may be drawn once each two weeks, twice a month, or once each four weeks as determined by the governing board.

45039. Where the governing board of any school district arranges to pay persons employed by it in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, whether or not the persons are actually engaged in teaching during the month.

45040. The governing board of any school district not paying the

annual salaries of persons employed by the district in 12 equal monthly payments may withhold from each payment made to each employee an amount equal to 16% percent thereof.

The total of the amounts deducted from the salary of any employee during any school year shall be paid to him in two equal installments, one installment to be paid not later than the fifth day of August next succeeding, and one installment to be paid not later than the fifth day of September next succeeding.

In the event any employee leaves the service of the district by death or otherwise before receiving such moneys as may be due him, the amount due him shall be paid within 30 days to him or to any other person entitled thereto by law.

45041. A person in a position requiring certification qualifications who serves less than a full school year shall receive as salary only an amount that bears the same ratio to the established annual salary for the position as the number of working days he serves bears to the total number of working days plus institutes in the annual school term, and any other day when the employee is required by the governing board to be present at the schools of the district. Notwithstanding any provisions of this section to the contrary, a person in a position requiring certification qualifications who serves a complete semester shall receive not less than one-half of the established annual salary for the position. This section shall not be so construed as to prevent the payment of compensation to a person while on leave of absence when the payment of the compensation is authorized by law.

In the event any such person dies during the school year, his estate shall be entitled to receive, as salary owed to the decedent, an amount that bears the same ratio to the established annual salary for the position as the number of working days he served bears to the total number of working days plus institutes in the annual school term, and any other day when the employee was required by the governing board to be present at the schools of the district, less any salary paid to the decedent prior to his death.

45042. Notwithstanding the provisions of Section 45041, the governing board of a school district may adopt an alternative method of computing the salary received by a person requiring certification qualifications who serves less than a full school year.

Such method shall include the deduction from the employee's regular salary of only that amount actually paid to a substitute or, if a substitute is not employed, the amount which would have been paid to a substitute had a substitute been employed.

For the purposes of this section, the amount which would have been paid to a substitute is that amount established by the district in a published salary schedule for substitute employees.

Such alternative method shall only be applied upon authorization by the school board based upon individual employee application and shall be limited to no more than five days per school year for each employee.

45043. Notwithstanding the provisions of Section 45041 or any other provision of law to the contrary, if a person is employed by a school district in a position requiring certification qualifications at the beginning of the second semester of a school year for services during that semester, the compensation of such employee shall be not less than one-half of the annual compensation for that position.

45044. Whenever a salary schedule increasing the salaries of its certificated employees is adopted by a school district to be effective at the commencement of the second semester of a school year:

(a) The compensation of such employees shall not exceed one-half of the annual compensation for their positions under the former salary schedule for services during the first semester.

(b) The compensation of such employees shall not be less than one-half of the annual compensation for their positions under the newly adopted salary schedule for services during the second semester.

This section shall not be construed to limit the time at which any salary increase ordered by the governing board shall become effective.

45045. When a school district operates on a year-round schedule pursuant to Chapter 5 (commencing with Section 37600) of Part 22 of this division, the salary of an employee who is employed for the extended school year and who previously had been assigned to a 9- or 10-month teaching position in the same district shall be adjusted in accordance with the ratio of the extension in the number of days expected to be taught by said employee to the number of days expected to be taught by employees in the district in the school year prior to the commencement of year-round operation.

A full-time probationary or permanent classroom teacher currently employed by a school district which converts to a continuous school program shall not, without his written consent, be required to teach under such program more than 180 days during a school year, or more than the number of days the schools of the district were maintained during the year preceding implementation of the continuous school program, whichever is the greater. This section shall not be construed as limiting the power of school district governing boards to govern the schools of the district, including the assignment of teachers employed by the district.

45046. Except as otherwise provided in Section 45045, the governing board of a school district in which a continuous school program is in operation pursuant to Chapter 5 (commencing with Section 37600) of Part 22 of this division, but in fewer than all of the schools in the district or with fewer than all of the certificated employees participating therein, and in which revised salary schedules become effective on a date other than July 1, may adjust the salaries of certificated employees participating in the continuous school program so that the total amount payable to each such employee in a school year does not differ from the salary which would be payable to him over such a period if he were not

participating in the program.

45047. Service on a commission on professional competence pursuant to Section 44944, in the employing school district or in some other district, by a person employed by a district in a position requiring certification qualifications shall not be considered time off job with respect to Section 45041. Neither the amount paid to a substitute required to be hired to replace such a person serving on a commission on professional competence pursuant to Section 44945 in the employing school district or in some other district nor the amount which would have been paid to a substitute had a substitute been employed, shall be deducted from the person's salary pursuant to Section 45042.

45048. Each salary payment for any calendar month may be made on the last working day of the month and shall be paid not earlier than the last working day of the month and not later than the fifth day of the succeeding calendar month except that teachers employed for less than full time in classes for adults, in a day or evening high school, in a day or evening community college, or in a special day or evening class maintained in connection with an elementary school shall be paid on or before the 10th day of the succeeding calendar month for services performed during the preceding calendar month.

If the school district provides for the payment of the salary of employees employed in positions requiring certification qualifications once each two weeks, twice a month, or once each four weeks, pursuant to Section 45038, each salary payment may be made on the last working day of the payroll period and shall be made not earlier than the last working day of the payroll period and not later than the eighth working day of the following payroll period.

This section shall not prohibit a school district from making a payment of earned salary prior to the last working day of the month or payroll period.

45049. When any school district employs a certificated employee to perform teaching or other services in addition to his regular teaching duties, or when a school district employs a certificated employee to perform teaching or other services at a summer school maintained by the district, the district shall pay the employee for such services either in one lump sum or at an hourly, daily, biweekly, quadriweekly, or monthly rate of pay. If the pay is in one lump sum, the district shall pay the employee within 10 days after the termination of the services. If the pay is at an hourly, daily, biweekly, quadriweekly or monthly rate, the district shall pay the employee within 10 days after the end of each calendar month or pay period during which the services are performed.

45050. Instead of issuing a single warrant to each employee for salary or wages the district may use a payroll form of warrant making payment to two or more employees on one payroll warrant.

45051. When the payroll form of warrant is used, the approved and allowed payroll warrant shall be deposited with the county

treasurer, who shall make payment to the employee or his order.

45052. When the payroll form of warrant is used the name of each employee shall be listed.

45053. The governing board of each school district shall pay to each person employed in a day school of the district for full time in a position requiring certification qualifications and serving under other than an emergency or provisional credential an annual salary of not less than six thousand dollars (\$6,000).

The governing board of each school district shall pay to each person employed for less than full time in a position requiring certification qualifications and serving under other than an emergency or provisional credential an annual salary of not less than an amount which bears the same ratio to six thousand dollars (\$6,000) as the time required of the person bears to the time required of a person employed full time.

“Full time” means not less than the minimum schoolday for each day the schools of the district are maintained during the school year.

The provisions of this section shall not be construed as applying to substitute employees of a school district or to persons employed exclusively to teach driver training who possess only a standard designated subjects teaching credential in public safety and accident prevention.

45054. The governing board of each school district shall pay to each person employed in a day school of the district for full time in a position requiring certification qualifications and serving under an emergency credential or provisional credential an annual salary of not less than two thousand four hundred dollars (\$2,400).

The governing board of each school district shall pay to each person employed for less than full time in a position requiring certification qualifications and serving under an emergency credential or provisional credential an annual salary of not less than an amount which bears the same ratio to two thousand four hundred dollars (\$2,400) as the time required of the person bears to the time required of a person employed full time.

“Full time” means not less than the minimum schoolday for each day the schools of the district are maintained during the school year.

The provisions of this section shall not be construed as applying to substitute employees of a school district.

45055. Except as otherwise provided in this code, no warrant shall be drawn in favor of any teacher, unless the officer whose duty it is to draw the warrant is satisfied that the teacher has faithfully performed all the duties prescribed.

45056. Whenever a person is employed by two or more districts under the jurisdiction of a single county superintendent of schools, the governing boards of the districts may authorize, in writing, the county superintendent of schools to act as their agent in the payment of the salaries due such person from the districts. If such authorization is given, the county superintendent of schools may draw a warrant on the county school service fund in payment of the

total salaries due such person and shall immediately draw requisitions in favor of the county school service fund against the proper funds of each district for the amount paid by him to such person on account of such district.

45057. The salary payment due a certificated employee for his last month of service in any district during any fiscal year shall not be approved by the county superintendent of schools until all reports required from the employee have been filed with said superintendent.

45058. Whenever reports are required to be filed with the county superintendent of schools by certificated employees of districts authorized to issue warrants under the provision of Section 42647 and such reports have not been filed, the county superintendent of schools may direct the district in writing to withhold the salary payment due the certificated employee involved. Said payment should not be released to the certificated employee until directed in writing by the county superintendent of schools.

45059. For the purposes of Military and Veterans Code Section 395 or any other provision of law providing for the payment of salary or compensation as such employee to an employee of a school district while absent from duty because engaged in ordered military or naval duty, his salary or compensation as such employee for 30 days shall (a) with respect to an employee serving in a position requiring certification qualifications be deemed to be one-tenth of the annual salary established for such position and (b) with respect to an employee serving in a position not requiring certification qualifications be deemed to be one month's salary.

45060. The governing board of each school district when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes such statewide organization to receive membership dues on its behalf and for the purpose of paying his pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district for such dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period. The governing board shall each month draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to such organization during the month. The district shall retain and deposit in the general fund of the district the total amounts deducted from the employee's salary payment for the purpose of paying the employee's pro rata share of the costs incurred by the district in

making the dues deductions provided for in this section. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making such deduction.

## CHAPTER 5. CLASSIFIED EMPLOYEES

### Article 1. Employment

45100. Article 2 (commencing with Section 10340) of Chapter 4 of Part 7 of Division 1, of Title 1, Articles 1 to 5, inclusive (commencing with Section 45100), Article 7 (commencing with Section 45340) of this chapter, and the applicable provisions of Sections 44047, 44048, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, of Division 1, of Title 1, Chapter 1 (commencing with Section 44000) of this part shall apply to all classified employees of a school district, including those authorized in Sections 35025, 35041, and 35045, whether a merit or nonmerit system district as authorized by this chapter unless the section specifically limits its application to nonmerit system districts. These provisions shall also apply to all persons who are part of the classified service who are employed by the county superintendent of schools, or any division thereof, and whose salaries are paid out of the county school service fund regardless of the origin of such fund moneys, and to all persons employed by any entity, including a regional occupational center or program, created or established by any two or more school districts pursuant to statute, including Chapter 14 (commencing with Section 7450) of Division 6, exercising any joint power pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, or as otherwise conferred by law upon such districts.

These provisions shall not apply to employees of a school district lying wholly within a city and county which provides in its charter for a merit system of employment for employees employed in positions not requiring certification qualifications.

The positions authorized in Sections 35025, 35041, and 35045 may, by resolution of a governing board, be exempted from the provisions of Article 6 (commencing with Section 45240) of this chapter.

45101. Definitions as used in this chapter:

(a) "Classification" means that each position in the classified service shall have a designated title, a regular minimum number of assigned hours per day, days per week, and months per year, a specific statement of the duties required to be performed by the employees in each such position, and the regular monthly salary ranges for each such position.

(b) "Permanent" as used in the phrase "permanent employee"

includes tenure in the classification in which the employee passed the required probationary period, and includes all of the incidents of that classification.

(c) "Regular" as used in the phrase "regular classified employee" or any similar phrase, refers to a classified employee who has probationary or permanent status.

(d) "Demotion" means assignment to an inferior position or status, without the employee's written voluntary consent.

(e) "Disciplinary action" includes any action whereby an employee is deprived of any classification or any incident of any classification in which he has permanence, including dismissal, suspension, demotion, or any reassignment, without his voluntary consent, except a layoff for lack of work or lack of funds.

(f) "Reclassification" means the upgrading of a position to a higher classification as a result of the gradual increase of the duties being performed by the incumbent in such position.

(g) "Layoff for lack of funds or layoff for lack of work" includes any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has permanence, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff.

(h) "Cause" relating to disciplinary actions against classified employees means those grounds for discipline, or offenses, enumerated in the law or the written rules of a public school employer. No disciplinary action may be maintained for any "cause" other than as defined herein.

The provisions of this section shall not apply to school districts to which the provisions of Article 6 (commencing with Section 45240) of this chapter are applicable.

The provisions of this section shall not apply to any school district which, during the 1973-74 school year, had an average daily attendance of 100,000 or more.

45102. For the purposes of this section every classified employee shall be deemed to be employed for 12 months during each school year regardless of the number of months in which he is normally in paid status. Any school district which, in any school year, maintains school sessions at times other than during the regular September-June academic year shall assign for service during such times regular classified employees of the district. When it is necessary to assign classified employees not regularly so assigned to serve between the end of one academic year and the commencement of another, such assignment shall be made on the basis of qualifications for employment in each classification of service which is required. No classified employee whose regular yearly assignment for service excludes all, or any part of, the period between the end of the academic year in June to the beginning of the next academic year in September, shall be required to perform services during such period. A classified employee shall, for services performed as herein provided, receive, on a pro rata basis, not less

than the compensation and benefits which are applicable to that classification during the regular academic year.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45103. The governing board of any school district shall employ persons for positions not requiring certification qualifications. The governing board shall, except where Article 6 (commencing with Section 45240) of this chapter or Section 45318 applies, classify all such employees and positions. The employees and positions shall be known as the classified service. Substitute and short-term employees, employed and paid for less than 75 percent of a school year, shall not be a part of the classified service. Part-time playground positions, apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment, shall not be a part of the classified service. Full-time students employed part time, and part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, of Division 4, of this title and which is financed by state or federal funds, shall not be a part of the classified service.

The term "short-term employees" as used in this section shall be construed to mean any person who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis.

"Seventy-five percent of a school year" means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of number of hours worked per day.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

This section shall apply only to districts not incorporating the merit system as outlined in Article 6 (commencing with Section 45240) of this chapter.

45104. Every position not defined by this code as a position requiring certification qualifications and not specifically exempted from the classified service according to the provisions of Section 45103 or 45256 shall be classified as required by those sections and shall be a part of the classified service. Such positions may not be designated as certificated nor shall the assignment of a title to any such a position remove the position from the classified service, nor shall possession of a certification document be made a requirement for employment in any such position.

Nothing in this section shall be construed to prohibit the employment of any individual in a position described by this section as part of the classified service who is in possession of certification

qualifications, nor shall the possession of certification qualifications be grounds for the elimination of an individual for consideration for employment in such a position.

This section shall apply to districts which have adopted the merit system in the same manner and with the same effect as though it were a part of Article 6 (commencing with Section 45240) of this chapter.

45105. (a) Positions not requiring certification qualifications created by a governing board of a school district under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall, nevertheless, be a part of the classified service as established by Section 45103 or Section 45256 of this code.

Persons employed in such positions shall be classified employees and shall enjoy all of the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are a part of the regular school program.

(b) Notwithstanding the provisions of subdivision (a), if specially funded positions are restricted to employment of persons in low-income groups, from designated impoverished areas and other criteria which restricts the privilege of all citizens to compete for employment in such positions, all such positions shall, in addition to the regular class title, be classified as "restricted." Their selection and retention shall be made on the same basis as that of persons selected and retained in positions that are a part of the regular school program, except that persons employed in the following categories of restricted positions shall not be subject to the provisions of Section 45272 or 45273:

(a) The position of instructional aide, as defined in Section 45343.

(b) Any other position involving personal contacts with pupils or parents that is established to assist school-staff personnel responsible for school-community relations; educational support services for such areas as counseling, library or health; or the correction or prevention of behavioral problems.

Persons employed in positions properly classified as "restricted" shall be classified employees for all purposes except:

(1) They shall not be accorded employment permanency under Section 45113 or Section 45301 of this code, whichever is applicable.

(2) They shall not acquire seniority credits for the purposes of Sections 45298 and 45308 of this code or, in a district not having the merit (civil service) system, for the purposes of layoff for lack of work or lack of funds as may be established by rule of the governing board.

(3) The provisions of Sections 45287 and 45289 shall not apply to "restricted" employees.

(4) They shall not be eligible for promotion into the regular classified service or, in districts that have adopted the merit system, shall not be subject to the provisions of Section 45241, until they have complied with the provisions of subdivision (c).

(c) At any time, after completion of six months of satisfactory service, a person serving in a "restricted" position shall be given the opportunity to take such qualifying examinations as are required for all other persons serving in the same class in the regular classified service. If such person satisfactorily completes the qualifying examination, regardless of final numerical listing on an eligibility list, he shall be accorded full rights, benefits and burdens of any other classified employee serving in the regular classified service. His service in the regular classified service shall be counted from the original date of employment in the "restricted" position and shall continue even though he continues to serve in a "restricted" position.

(d) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

(e) It is the intent of the Legislature in enacting this section to clearly set forth that positions normally a part of the classified service are included therein regardless of the source of income to sustain such positions and to effectively implement specially funded programs intended to provide job opportunities for untrained and impoverished persons but to do so in a manner that will not be disruptive nor detrimental to the normal employment procedures relating to classified school service.

45106. Notwithstanding the provisions of Section 45103 or Section 45256, which exempt certain types of positions or categories of personnel from the classified service of a school district, persons serving in exempt positions or who serve in classified positions but are exempted from the classified service shall, nevertheless, be subject to the provisions of Sections 45122 to 45125, inclusive, and Section 49406. The governing board of every school district shall, by rule or regulation, provide for the implementation of this section.

The provisions of this section shall not apply to full-time day students regularly attending in the district of employment.

45107. (a) The "act" as used in this section shall mean the Federal Emergency Employment Act of 1971 (Public Law 92-54) or any similar federal law hereafter enacted to provide transitional employment in public service positions for unemployed or underemployed persons.

(b) Funds derived from the act shall not be expended for work that: (1) would otherwise have been performed at federal, state, or local expense; (2) will not result in an increase over the employment which would otherwise be available; (3) which will result in the displacement of permanent members of the classified service (including partial displacement, such as reduction in the hours of nonovertime work or wages or employment benefits); (4) or which

will impair existing rights of permanent members of the classified service.

(c) If during the term of a contract or renewal thereof, executed under the act, a school district is engaged in layoffs for lack of work or lack of funds of permanent classified employees serving in regular positions and is employing personnel or contemplates employing personnel in like or reasonably similar positions under the act, a report shall be submitted by the superintendent of schools to the governing board clearly demonstrating and substantiating the fact that the duties being performed by the permanent employees in regular positions who are being laid off will not be performed by personnel employed under the act.

Approval of the report by the governing board shall constitute its acceptance of the facts, as contained therein, and based thereon its affirmation of compliance with the contract executed under the act and this section.

This section shall apply to districts which have adopted the merit system in the same manner and with the same effect as though it were a part of Article 6 (commencing with Section 45240) of this chapter.

45108. If the governing board of any school district establishes positions in the categories described below and restricts initial appointments of new employees to persons in low-income groups or residing in specifically designated areas of the community, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that (1) they shall not be subject to the provisions of Section 45272 or 45273, and (2) they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 45105.

The categories of positions for which the governing board may establish restrictions under this section are:

(a) The position of instructional aide, as defined in Section 45343.

(b) Any other position involving personal contacts with pupils or parents, that is established to assist school staff personnel responsible for school-community relations; educational support services for such areas as counseling, library, or health; or the correction or prevention of behavioral problems.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

This section shall remain in effect only until January 31, 1979, and as of that date is repealed.

45109. Governing boards shall fix and prescribe the duties to be performed by all persons in the classified service and other positions not requiring certification qualifications of the school district, except those persons employed as a part of a personnel commission staff as

provided in Article 6 (commencing with Section 45240) of this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45110. Classified employees shall not be required to perform duties which are not fixed and prescribed for the position by the governing board in accordance with Section 45109, unless the duties reasonably relate to those fixed for the position by the board, for any period of time which exceeds five working days within a 15-calendar-day period except as authorized herein.

An employee may be required to perform duties inconsistent with those assigned to the position by the governing board for a period of more than five working days provided that his salary is adjusted upward for the entire period he is required to work out of classification and in such amounts as will reasonably reflect the duties required to be performed outside his normal assigned duties.

Notwithstanding the provisions of this section, a personnel commission and governing board, or a governing board in a nonmerit system district, may, by written rule, provide for an upward salary adjustment for any classified employee required to work out of classification for any period of time less than that required herein.

It is the intent of this section to permit school districts to temporarily work employees outside of their normal duties but in so doing to require that some additional compensation be provided the employee during such temporary assignments.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45111. No school district may adopt or maintain any rule or regulation which requires a candidate for a position in the classified service to be a resident of the district or to become a resident of the district, or which requires that an employee maintain residency within the district; nor may a district grant preferential points or other preferential treatment to those candidates or employees who are residents of the district. This section shall not apply to restricted positions as provided for in Sections 45105 and 45103.

The Legislature in enacting this section recognizes that the public school system of this state is the property of all its citizens, and that all qualified candidates for positions in the classified service, regardless of residence, should be granted the opportunity to compete for and obtain such positions based solely on merit and fitness.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45112. If the governing board of any school district employs staff assistants or field representatives to directly assist the governing

board or individual governing board members in carrying out their policymaking duties, such assistants or representatives shall be members of the classified service, except that such assistants or representatives shall be exempt from all provisions of this code relating to obtaining a permanent status in any position in the district, and procedures pertaining to the recruitment, appointment, classification, and salary of members of the classified service.

Staff assistants shall serve at the pleasure of a majority of the governing board, and each field representative appointed by the governing board to assist an individual member shall serve at the pleasure of such member.

It is the intent of the Legislature that persons employed under Section 45112 will not be utilized for election campaigns of board members during hours of their employment.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45113. The governing board of a school district shall prescribe written rules and regulations, governing the personnel management of the classified service, which shall be printed and made available to employees in the classified service, the public, and those concerned with the administration of this section, whereby such employees are designated as permanent employees of the district after serving a prescribed period of probation which shall not exceed one year.

Any employee designated as a permanent employee shall be subject to disciplinary action only for cause as prescribed by rule or regulation of the governing board, but the governing board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

The governing board shall adopt rules of procedure for disciplinary proceedings which shall contain a provision for informing the employee by written notice of the specific charges against him, a statement of his right to a hearing on such charges, and the time within which such hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper, the signing and filing of which shall constitute a demand for hearing, and a denial of all charges. The burden of proof shall remain with the governing board, and any rule or regulation to the contrary shall be void.

No disciplinary action shall be taken for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two years preceding the date of the filing of the notice of cause unless such cause was concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the employing district.

This section shall apply only to districts not incorporating the merit system as outlined in Article 6 (commencing with Section 45240) of this chapter.

45114. Notwithstanding the provisions of Section 45113, the governing board may lay off and reemploy classified employees only in accordance with procedures provided by Sections 45298 and 45308, except the term "personnel commission" therein shall be construed to mean the governing board. "Governing board" as used in this section shall include districts governed by a common board or by different boards but with a common administration. Employees in common board or common administration districts shall, for the purpose of layoff for lack of work or funds, be considered as having been employed in a single district.

45115. Notwithstanding any other provision of law, any person who was subject to being, or was in fact, laid off for lack of work or lack of funds and who elected service retirement from the Public Employees' Retirement System shall be placed on an appropriate reemployment list. The district shall notify the Board of Administration of the Public Employees' Retirement System of the fact that retirement was due to layoff for lack of work or of funds. If he is subsequently subject to reemployment and accepts, in writing, the appropriate vacant position, the district shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed his request for reinstatement from retirement.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45116. A notice of disciplinary action shall contain a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based, a statement of the cause for the action taken and, if it is claimed that an employee has violated a rule or regulation of the public school employer, such rule or regulation shall be set forth in said notice.

A notice of disciplinary action stating one or more causes or grounds for disciplinary action established by any rule, regulation, or statute in the language of the rule, regulation, or statute, is insufficient for any purpose.

A proceeding may be brought by, or on behalf of, the employee to restrain any further proceedings under any notice of disciplinary action violative of this provision.

This section shall apply to proceedings conducted under the provisions of Article 6 (commencing with Section 45240) of this chapter.

45117. (a) When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of such school year shall be given written notice on or before May 29 informing them of their layoff effective at the end of such school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is

other than June 30, such notice shall be given not less than 30 days prior to the effective date of their layoff.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 30 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

(c) Nothing herein provided shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries of classified employees, nor layoff for lack of work resulting from causes not foreseeable or preventable by the governing board, without the notice required by subsection (a) or (b) hereof.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45118. Any division, uniting, unionization, annexation, merger, or change of school district boundaries shall not affect the rights of persons employed in positions not requiring certification qualifications to continue in employment for not less than two years and to retain the salary, leaves and other benefits which they would have had had the reorganization not occurred, and in the manner provided in this article:

(a) All employees of every school district which is included in any other district, or all districts included in a new district, shall become employees of the new district.

(b) When a portion of the territory of any district becomes part of another district employees regularly assigned to perform their duties in the territory affected shall become employees of the acquiring district. Employees whose assignments pertained to the affected territory, but whose employment situs was not in such territory, may elect to remain with the original district or become employees of the acquiring district.

(c) When the territory of any district is divided between or among two or more districts and the original district ceases to exist, employees of the original district regularly assigned to perform their duties in any specific territory of such district shall become employees of the district acquiring the territory. Employees not assigned to specific territory within the original district shall become employees of any acquiring district at their election.

(d) Employees regularly assigned by the original district to any school in said district shall be an employee of the district in which said school is located. Except as herein provided, nothing herein shall deprive the governing board of the acquiring district from making reasonable reassignments of duties.

45119. Whenever, by reason of any reorganization, other than the unification of districts, all or part of the territory of any school district which has adopted the merit system is included within any district, or in any new district, the governing board of the acquiring or new

district shall adopt such merit system. In the event that any district simultaneously acquires all or part of the territory of two or more districts which have previously adopted the merit system, the governing board of the acquiring or new district shall adopt a merit system containing such provisions as are necessary to afford to all employees the rights guaranteed by this section. The employees of the reorganized or new district shall retain all rights and privileges as if they had been employed under the provisions of Article 6 (commencing with Section 45240) of this chapter, with seniority commencing as of the date of original employment in their original district. Where there are more than a sufficient number of employees for a given classification under the provisions of Article 6 (commencing with Section 45240) of this chapter, such personnel shall be retained in employment for a period of not less than two years as if the reorganization had not occurred but without prejudice to the powers of the personnel commission and governing board of the reorganized district to reasonably reassign such persons. If at the expiration of such period, upon a finding made by the personnel commission that there are excess personnel in any given classification, such personnel shall, if the governing board so directs, be placed upon appropriate reemployment lists for 39 months and, if so placed, shall be offered and may accept positions of lower rank in their line of promotion in the order of seniority as established by this section in accordance with rules drawn in compliance with the provisions of Article 6 (commencing with Section 45240) of this chapter. The acceptance of a position in lower rank in accordance herewith shall not be deemed to constitute a waiver of the right to reemployment at the original level should a vacancy at such level occur within the period mentioned in this section.

45120. If all or any part of any district or districts which is unified with all or any part of a district, has, or have, the merit system prior to the date of the reorganization election, all employees not legally requiring certification qualifications of the reorganized district shall be employed in accordance with Article 6 (commencing with Section 45240) of this chapter. If on the date of such reorganization election, two or more of the said defined districts of such reorganized district have merit systems, the reorganized district shall adopt a single merit system which shall contain all provisions necessary to secure to all employees the rights guaranteed by Section 45121 of this code.

Seniority of the personnel of the reorganized district shall be established as of the date of original employment in the district or districts as defined above. Where there are more than a sufficient number of employees for a given classification under the provisions of Article 6 (commencing with Section 45240) of this chapter, such personnel shall be retained in employment for a period of not less than two years as if the reorganization had not occurred but without prejudice to the powers of the personnel commission and the governing board of the new unified district to reasonably reassign

such person. If at the expiration of such period, upon a finding made by the personnel commission that there are excess personnel in any given classification, such personnel shall, if the governing board so directs, be placed upon appropriate reemployment lists for 39 months, and shall, if so placed, be offered and may accept positions of lower rank in their line of promotion in the order of seniority as established by this section in accordance with rules drawn in compliance with the provisions of Article 6 (commencing with Section 45240) of this chapter. The acceptance of a position in lower rank in accordance herewith shall not be deemed to constitute a waiver of the right to reemployment at the original level should a vacancy at such level occur within the period mentioned in this section.

45121. Persons employed in positions not requiring certification qualifications in districts, all or part of whose territory is included in a unification of districts, shall continue as employees of the unified school district for not less than two years, and shall not, by reason of any unification, be deprived of any benefit which they would have had had the unification not taken place. In determining the rights of such employees, their salaries, accumulated leaves, and other rights shall be determined as of the date the unification election was conducted. No increase in benefits not previously conferred, granted by the governing board of any district, all or part of whose territory is included in a unification of districts, after such unification election, shall be binding on the governing board of the unified district, except that benefits granted in the districts comprising the new unified district which does not become effective until the second succeeding first day of July shall be binding on the governing board of the unified district. Nothing herein contained shall preclude the governing board of the unified school district from making any reasonable reassignment of the duties of such employees. The governing board of the unified district shall establish a system of uniform salaries, employee benefits and working conditions for employees performing like services in conformity with the provisions of this section.

45122. Whenever a governing board of a school district requires a physical examination to be taken by a classified employee or employees, either by rule or by its direction or the direction of its authorized district administrator; or when classified employees are required by law to submit to a physical examination for continuance in employment, the board shall either provide the required examination, cause it to be provided, or provide the employee with reasonable reimbursement for the required examination.

If the governing board requires a physical examination or an examination is required by law as a condition of preemployment, it may cause the required examination to be given. It may, if an applicant is required to take a preemployment physical examination, provide for reasonable reimbursement if the applicant is subsequently employed by the district.

The provisions of this section are not intended to supersede the provisions of Section 44014 of this code.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45123. No person shall be employed or retained in employment by a school district who has been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

Nothing in this section shall prohibit the employment by a school district of a person convicted of a narcotics offense involving the use or possession of marijuana if the governing board of the school district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

45124. No person shall be employed or retained in employment by a school district who has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

45125. The governing board of any school district shall, within 10 working days of date of employment, require each person to be employed, or employed in, a position not requiring certification qualifications to have two 8" x 8" fingerprint cards bearing the legible rolled and flat impressions of such person's fingerprints together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the school district, which agency shall transmit such cards, together with the fee hereinafter specified, to the Department of Justice; except that a district, or districts with a common board, having an average daily attendance of 60,000 or more may process the fingerprint cards in the event the district so elects. "Local public law enforcement agency" as used herein and in Section 45126 includes a school district with an average daily attendance of 60,000 or more. Upon receiving such identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as such fact can be ascertained from information available to the department and forward such information to the local public law enforcement agency submitting the applicant's or

employee's fingerprints at the earliest possible date. At its discretion, the Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee.

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section. The Department of Justice shall direct when such cards are to be forwarded to it for processing which in no event shall be later than two years from the date of enactment of this section. Districts which have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of such fee shall be forwarded to the Department of Justice, with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two dollars (\$2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. Such additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, such fee may be reimbursed to the applicant. Funds not reimbursed applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. The provisions of this section shall not apply to a district, or districts with a common board, which has an average daily attendance of 400,000 or greater, or to a school district wholly within a city and county, unless the governing board of such district or districts, by rule, provides for adherence to this section.

45126. Any provision of law to the contrary notwithstanding, the

Department of Justice, shall, as provided in Section 45125, furnish, upon application of a local public law enforcement agency all information pertaining to any such person of whom there is a record in its office.

45127. The workweek of a classified employee, as defined in Section 45103 or Section 45256, shall be 40 hours. The workday shall be eight hours. These provisions do not restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the district. Nothing in this section shall be deemed to bar the district from establishing a workday of less than eight hours or a workweek of less than 40 hours for all or any of its classified positions.

Notwithstanding the provisions of this section and Section 45128, a governing board may, with the approval of the personnel commission, where applicable, exempt specific classes of positions from compensation for overtime in excess of eight hours in one day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. Such exemption shall be applied only to those classes which the governing board and personnel commission, where applicable, specifically find to be a subject to fluctuations in daily working hours not susceptible to administrative control, such as security patrol and recreation classes, but shall not include food service and transportation classes.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45128. The governing board of each district shall provide the extent to which, and establish the method by which ordered overtime is compensated. The board shall provide for such compensation or compensatory time off at a rate at least equal to time and one-half the regular rate of pay of the employee designated and authorized to perform the overtime.

Overtime is defined to include any time required to be worked in excess of eight hours in any one day and in excess of 40 hours in any calendar week. If a governing board establishes a workday of less than eight hours but seven hours or more and a workweek of less than 40 hours but 35 hours or more for all of its classified positions or for certain classes of classified positions, all time worked in excess of the established workday and workweek shall be deemed to be overtime. The foregoing provisions do not apply to classified positions for which a workday of fewer than seven hours and a workweek of fewer than 35 hours has been established, nor to positions for which a workday of eight hours and a workweek of 40 hours has been established, but in which positions employees are temporarily assigned to work fewer than eight hours per day or 40 hours per week when such reduction in hours is necessary to avoid layoffs for lack of work or lack of funds and the consent of the majority of affected employees to such reduction in hours has been first obtained.

For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45129. When compensatory time off is authorized in lieu of cash compensation, such compensatory time off shall be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45130. Notwithstanding the provisions of Sections 45127 and 45128, a personnel commission, when applicable, or a governing board of a school district may specify certain positions or classes of positions as supervisory, administrative, or executive and exclude the employees serving in such positions and the positions from the overtime provisions.

To be excluded from such overtime provisions, the positions or classes of positions must clearly and reasonably be management positions. In approving positions or classes of positions for exclusion from the overtime provisions, the personnel commission, when applicable, or the governing board of a school district shall certify, in writing, that the duties, flexibility of hours, salary, benefit structure, and authority of the positions or classes of positions are of such a nature that they should be set apart from those positions which are subject to the overtime provisions, and that employees serving in such excluded positions or classes of positions will not be unreasonably discriminated against as a result of the exclusion.

Notwithstanding the provisions of this section, if a person serving in an excluded position is required to work on a holiday, as provided for in this code, or by action of a governing board, he shall be paid, in addition to his regular pay for the holiday, compensation, or given compensating time off, at a rate not less than his normal rate of pay.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45131. Notwithstanding the provisions of Section 45127, the workweek shall consist of not more than five consecutive working days for any employee having an average workday of four hours or more during the workweek. Such an employee shall be compensated for any work required to be performed on the sixth or seventh day following the commencement of the workweek at the rate equal to 1½ times the regular rate of pay of the employee designated and authorized to perform the work.

An employee having an average workday of less than four hours

during a workweek shall, for any work required to be performed on the seventh day following the commencement of his workweek, be compensated for at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

Positions and employees excluded from overtime compensation pursuant to Section 45130 shall likewise be excluded from the provisions of this section.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45132. Notwithstanding the provisions of Section 45131, a governing board of a district may establish a 10-hour-per-day, 40-hour, four-consecutive-day workweek for all, or certain classes of its employees, or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of five consecutive days, provided the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees as ascertained through the employee organization representing a majority of the concerned employees or class or classes, of employees, as determined by the payroll deduction authorizations for dues in classified employee organizations on file with the district on the last day of the month next preceding the date the board action was taken.

Where a board has previously established the workweek of not less than 35 hours, it may require the established workweek to be performed in four consecutive days by any class or classes of employees or by employees within a class, when by reason of the work location and duties actually performed by such employees their services are not required for a workweek of five consecutive days, with the concurrence of employee personnel as provided herein.

When a four-day workweek is established, the overtime rate shall be paid for all hours worked in excess of the required workday, which shall not exceed 10 hours. Work performed on the fifth, sixth and seventh days shall be compensated for at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

An employee working an average workday of five hours or less during a workweek shall, for any work required to be performed on the sixth or seventh day following the commencement of his workweek, be compensated for at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45133. In any school district situated wholly within the boundaries of a city having a population of more than five hundred thousand (500,000) but not exceeding five hundred fifty thousand

(550,000) as determined by the 1920 federal census, the janitors and other employees of the school district shall be employed in the same manner and under the same conditions as teachers are employed by the district and when employed shall be removed only for cause and after charges have been filed and heard by the board of education.

All employees who have been in the service of the school district continuously for a period of one year prior to July 27, 1917, shall be deemed to have been so employed.

The board of education may make and enforce all necessary rules and regulations to carry out the provisions of this section.

45134. (a) Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons a part of the classified service.

(b) Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any school employment who is otherwise qualified therefor.

(c) This section does not authorize the employment of any person in particular school employment who has reached the retirement age for that particular employment prescribed by any retirement system applicable thereto, whether or not the person is a member of the retirement system, or entitled to a retirement salary thereunder, nor shall any person be employed in such employment while he is receiving a retirement allowance under any retirement system by reason of prior school employment.

(d) The provisions of subdivision (c) shall be inapplicable to persons who were employed in the classified service of any school district as of September 18, 1959, and who are still in the employ of the same district on the effective date of this subdivision, and the rights of such persons shall be fixed and determined as of September 18, 1959; and no such person shall be deprived of any right to any retirement allowance or eligibility for any such allowance to which he would have been entitled as of that date. Any such person who, by reason of any provision of law to the contrary, has been deprived of any right to retirement allowance or eligibility for such an allowance, shall, upon the filing of application therefor, be reinstated to such rights as he would have had had this subdivision been in effect on September 18, 1959.

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter, except that in a school district or districts, governed by the same governing board, in which the combined average daily attendance of all districts is in excess of 400,000, the permanent classification of any employee who is classified as a permanent employee under the provisions of Article 6 (commencing with Section 45240) of this

chapter shall cease at the close of the fiscal year in which the employee reaches the age of 65 years. In such district or districts the employment, or continued employment of any employee beyond the close of the fiscal year in which he reaches the age of 65 years shall be at the discretion of the governing board of the district, which may, at its pleasure, terminate the services of such employee at any time. Employment beyond age 65 in such districts shall be in accordance with rules and regulations governing such employment approved by the personnel commission, and adopted by the governing board of the district.

45135. Notwithstanding the provisions of subdivision (c) of Section 45134, a retired classified school employee may be employed by a school district, but only in accordance with the provisions of Article 5 (commencing with Section 21150) of Chapter 8 of Part 3 of Division 5 of Title 2 of the Government Code.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45136. All probationary and permanent part-time classified employees shall be entitled to sick leave, and all other benefits conferred by law on classified employees. Part-time employees shall be entitled to all leaves and benefits granted by the governing board to a majority of the regular full-time employees in the classified service of the district or to regular full-time employees in the same classified positions or general class of positions; but such leaves and benefits may be prorated in the same ratio as the regular work hours per day, days per week, weeks per month, or months per year of such part-time employees bear to eight hours per day, 40 hours per calendar week, four calendar weeks per month, or 12 calendar months during the school year.

Except for prorating benefits for part-time employees as herein authorized, the governing board shall provide at least the same benefits for all regular employees in the classified service as it provides for the majority of such employees.

Nothing in this section shall be construed to prohibit the granting of additional benefits for some employees in recognition of nature of work, level of classification, or length of service.

This section shall not apply to employees properly designated as substitute, short-term, or limited-term employees, as defined in Sections 45103 and 45286 of this code, unless such employees are specifically included by a governing board, or by a personnel commission for those districts included under the provisions of Article 6 (commencing with Section 45240) of this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

This section shall not apply to those benefits authorized under the provisions of Article 1 (commencing with Section 53200) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

45137. A classified employee who works a minimum of 30 minutes per day in excess of his part-time assignment for a period of 20 consecutive working days or more, shall have his basic assignment changed to reflect the longer hours in order to acquire fringe benefits on a properly prorated basis as specified in Section 45136.

If a part-time employee's average paid time, excluding overtime for which the employee receives compensation at a rate at least equal to time and one-half, exceeds his average assigned time by 50 minutes or more per working day in any quarter, the hours paid per day for compensable leaves of absence and holidays in the succeeding quarter shall be equivalent to the average hours paid per working day in the preceding quarter, excluding overtime.

Except where vacation entitlement is accrued on the basis of actual hours of paid regular service, vacation entitlement shall be based on the average number of hours worked per working day during the portion of the school year in which the employee is assigned to duty.

It is the intent of the Legislature, in enacting this section, to insure that part-time employees are accorded fringe benefits on an appropriate prorated basis with full recognition given to the number of hours worked by the part-time employee rather than on the basis of time fixed to the position when the fixed time is not reasonably correlated with the actual time worked. This section is to be liberally construed in order that the provisions of Section 45136 may not be circumvented by requiring employees to work in excess of the regularly fixed hours for a position on an overtime basis but for which premium pay is not provided nor appropriate adjustment is not made in fringe benefit entitlement.

45138. The governing board of any school district may require the wearing of a distinctive uniform by classified personnel. The cost of the purchase, lease or rental of uniforms, equipment, identification badges, emblems, and cards required by the district shall be borne by the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

## Article 2. Salaries

45160. The governing board of any school district, including city boards of education, shall fix and order paid the compensation of persons a part of the classified service and other employees not requiring certification qualifications employed by the board unless otherwise prescribed by law.

45161. In any school district with an average daily attendance of more than 400,000 which includes within its boundaries a chartered city, the charter of which requires the fixing of wages and salaries at levels at least equal to the prevailing salary or wage for the same quality of service rendered to private employers under similar

employment when such prevailing salary or wage can be ascertained, the governing board of the district, in fixing the compensation of classified employees, shall fix salaries or wages by use of the same standard.

45162. (a) The governing board of any school district shall, not later than the date prescribed by law for approval of the publication budget of every year, fix the annual salaries for the ensuing school year for all persons employed by the district in positions not requiring certification qualifications. The governing board may, at the time, include an increase in such annual salaries, all or part of which increase is conditional upon the actual receipt by the district of anticipated revenue from all sources. If the revenue actually received is less than that anticipated, the governing board may, at any time during the school year, reduce such annual salaries by an amount not to exceed the amount which was granted subject to the receipt of such revenues.

(b) The governing board of a school district may, at any time during the school year, increase the salaries of persons employed by the district in positions not requiring certification qualifications for the remainder of the school year.

(c) A governing board may, at any time, increase the wages or salaries of classified employees if the board or, in a merit system district, the personnel commission approves a classification change in a position, a class of positions, or any or all of the positions or classes of positions a part of the classified service.

(d) The provisions of this section shall not be construed to permit a governing board to demote or dismiss an employee as a result of reclassification of a position or class of positions except as may otherwise be permitted by law.

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45163. If the governing board of a school district cannot comply with the provisions of subdivision (a) of Section 45162 because it is engaged in a study, which was commenced prior to the commencement of the school year, to increase the salaries and wages of persons employed by such district in positions not requiring certification qualifications, the board may, by appropriate action taken prior to the final adoption of its budget, do either of the following:

(a) Adopt an interim salary schedule which shall be the same schedule as for the preceding year, except that increases may be granted at that time based upon increased cost-of-living indexes, and provide that the salaries and wages fixed as a result of the study shall be payable for the entire school year to include the period thereof in which the study was conducted and final board action taken.

(b) Provide that the salaries and wages fixed as a result of the study shall be effective only for that portion of the school year, as determined by the board at the time it takes action after the study

has been completed. "Portion of the school year," as used in this subdivision shall not be for any period of time less than the period of time remaining in the school year from the date the governing board adopts the salary schedule based on the study commenced prior to that school year.

45165. The governing board of any school district not paying the annual or monthly salaries of persons employed by the district in 12 equal monthly payments may withhold, upon election by the individual employee, from each payment made to such employee an amount as follows:

(a) For an employee employed 11 months of a year an amount equal to  $8\frac{1}{3}$  percent thereof and the total amount deducted to be paid not later than the 10th day of September next succeeding.

(b) For an employee employed 10 months of a year an amount equal to  $16\frac{2}{3}$  percent thereof and the total amount deducted to be paid in two equal monthly installments not later than the 10th day of August and the 10th day of September next succeeding.

(c) For an employee employed nine months a year an amount equal to 25 percent thereof and the total amount deducted to be paid in three equal monthly installments not later than the 10th day of July, the 10th day of August and the 10th day of September next succeeding.

If the provisions of Section 42644 are made applicable to any district the provisions of this section shall apply except that the amount deducted from each regular pay period and ultimate dates for payment of the amount deducted shall be computed and set in accordance with the system adopted under Section 42644.

Once an employee has elected to be brought under the provisions of this section such election shall not be revocable until the commencement of the next ensuing fiscal year. However, in the event any employee leaves the service of the district by death or otherwise before receiving such moneys as may be due him, the amount due him shall be paid within 30 days of the last working day to him or any other person entitled thereto by law.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45166. Orders for the payment of wages and payroll orders and warrants for the payment of wages of employees a part of the classified service in any public school system shall be drawn at least once during each calendar month, for those districts not using the provisions of Sections 42644, 42645, or 42646 of this code. Such payment shall be made on the last working day of the month in which the employee was in paid status.

This section shall not prohibit a school district from making a payment of earned salary prior to the last working day of the pay period or of the month.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article

6 (commencing with Section 45240) of this chapter.

45167. Whenever it is determined that an error has been made in the calculation or reporting in any classified employee payroll or in the payment of any classified employee's salary, the appointing authority shall, within five workdays following such determination, provide the employee with a statement of the correction and a supplemental payment drawn against any available funds.

45168. The governing board of each school district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the payment of dues in, or for any other service provided by, any bona fide organization, of which he is a member, whose membership consists, in whole or in part, of employees of such district, and which has as one of its objectives improvements in the terms or conditions of employment for the advancement of the welfare of such employees.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is an increase in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such increase at a time sufficiently prior to the effective date of the increase to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the increase at a time sufficiently prior to the effective date of the increase to allow the employer an opportunity to make the necessary changes and with a copy of the notification of the increase which has been sent to all concerned employees.

Upon receipt of a properly signed authorization for payroll deductions by a classified employee pursuant to this section, the governing board shall reduce such employee's pay warrant by the designated amount in the next pay period following the closing date for receipt of changes in pay warrants.

The governing board shall, on the same designated date of each month, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the respective deductions made with respect to such organization during the pay period.

The governing board shall not require the completion of a new deduction authorization when a dues increase has been effected or at any other time without the express approval of the concerned employee organization.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45169. Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished

two copies of his class specification, salary data, assignment or work location, together with duty hours and the prescribed workweek. The salary data shall include the annual, monthly or pay period, daily, hourly, overtime and differential rate of compensation, whichever are applicable. One copy shall be retained by the employee and the other copy shall be signed and dated by the employee and returned to his supervisor.

The provisions of this section shall not apply to short-term, limited-term, or provisional employees, as those terms are defined in this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

### Article 3. Differential Compensation

45180. For purposes of this article, the following definitions shall apply unless the context indicates otherwise:

(a) "Differential compensation" means either a reduction in the number of hours required to be actually worked or an increase in salary.

(b) "Shift" means the number of hours worked and shall include a duty-free meal period of not less than one-half hour which, in the case of a seven- or eight-hour shift, shall occur approximately at the midpoint of the shift. This subdivision shall not apply to employees working six hours or less, or assigned to a split shift.

45181. The governing board of every school district, or the personnel commission in any merit system school district, shall, insofar as it is possible to do so, determine the practices relating to morning and night shift salary differentials in the private employment fields in which it must compete for employees for its classified staff and shall consider the advisability of providing comparable salary differentials for its classified staff.

45182. The governing board of any school district may provide differential compensation to those classified employees who perform duties of a distasteful, dangerous, or unique nature when, in the opinion of the board, such compensation is reasonably justified.

In a merit system district, such differentials shall be based upon findings and recommendations of the personnel commission and shall not be applied in a manner contrary to the principle of like pay for like service.

45183. Assignment to duties for which differential compensation is designated, other than a temporary assignment of less than 20 working days, shall be made on the basis of seniority among those employees within the appropriate class who request such an assignment.

45184. No employee assigned to work a shift entitled to differential compensation shall be demoted in class or grade as a result of such an assignment.

45185. An employee receiving differential compensation on the basis of his shift shall not lose such compensation if he is temporarily, for 20 working days or less, assigned to a shift not entitled to such compensation. The regular rate of pay for all purposes of an employee assigned to a shift which provides differential compensation shall be the differential rate.

45186. This article shall apply to school districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

#### Article 4. Resignation and Leaves of Absence

45190. Governing boards of school districts may grant leaves of absence and vacations, with or without pay, to persons employed in the classified service of the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45191. Every classified employee employed five days a week by a school district shall be entitled to 12 days leave of absence for illness or injury and such additional days, in addition thereto, as the governing board may allow for illness or injury, exclusive of all days he is not required to render service to the district, with full pay for a fiscal year of service.

A classified employee, employed five days a week, who is employed for less than a full fiscal year is entitled to that proportion of 12 days leave of absence for illness or injury as the number of months he is employed bears to 12 and the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

A classified employee employed less than five days per week shall be entitled, for a fiscal year of service, to that proportion of 12 days leave of absence for illness or injury as the number of days he is employed per week bears to five and is entitled to the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service. When such persons are employed for less than a full fiscal year of service this and the preceding paragraph shall determine that proportion of leave of absence for illness or injury to which they are entitled.

Pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking such leave by the employee and such leave of absence may be taken at any time during the year. However, a new employee of a district shall not be eligible to take more than six days, or the proportionate amount to which he may be entitled under this section, until the first day of

the calendar month after completion of six months of active service with the district.

If such employee does not take the full amount of leave allowed in any year under this section the amount not taken shall be accumulated from year to year with such additional days as the governing board may allow.

The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purpose of this section. Such rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized religious sect, denomination or organization.

The provisions of this section shall not apply to a school district or districts, governed by the same governing board, in which the combined average daily attendance of all districts is in excess of 400,000, provided such districts maintain sick leave policies not less than those in effect in such districts on January 1, 1961.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45192. Governing boards of school districts shall provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of any district which is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after the effective date of this section shall provide by rules and regulations for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes as provided in Section 4064.

Such rules and regulations shall include the following provisions:

(a) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.

(b) Allowable leave shall not be accumulative from year to year.

(c) Industrial accident or illness leave will commence on the first day of absence.

(d) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.

(e) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

(f) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 45191. When entitlement to industrial accident or illness leave has been exhausted,

entitlement or other sick leave will then be used; but if an employee is receiving workers' compensation the person shall be entitled to use only so much of the person's accumulated or available sick leave, accumulated compensating time, vacation or other available leave which, when added to the workers' compensation award, provide for a full day's wage or salary.

The governing board may, by rule or regulation, provide for such additional leave of absence, paid or unpaid, as it deems appropriate and during such leave the employee may return to the person's position without suffering any loss of status or benefits.

Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

During all paid leaves of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off or other available leave provided by law or the action of a governing board, the employee shall endorse to the district wage loss benefit checks received under the workers' compensation laws of this state. The district, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.

When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of the person's position, the person shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the person shall be employed in a vacant position in the class of the person's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the person shall be listed in accordance with appropriate seniority regulations.

The governing board may require that an employee serve or have served continuously a specified period of time with the district before the benefits provided by this section are made available to the person provided that such period shall not exceed three years and that all service of an employee prior to the effective date of this section shall be credited in determining compliance with the requirement.

Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board, pursuant to this section, an employee shall be entitled to industrial and accident or illness leave as provided in this section but without limitation as to the number of days of such leave and without any requirement of a specified period of service.

An employee who has been placed on a reemployment list, as

provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45193. The governing board of any school district may provide for such leave of absence from duty as it deems appropriate for any female employee in the classified service of the district who is required to absent herself from her duties because of pregnancy or convalescence following childbirth, and may adopt rules and regulations prescribing the manner of proof of pregnancy, the time during pregnancy at which the leave of absence shall be taken, and the length of time for which the leave of absence shall continue after birth of the child. The board may also provide in the rules and regulations whether leave granted under this section shall be with or without pay and, if with pay, the amount, if any, to be deducted from the salary due the employee for the period in which the absence occurs. However, nothing in this section shall be construed so as to deprive any employee of sick leave rights under other sections of this code for absences due to illness or injury resulting from pregnancy.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45194. Every person employed in the classified service of any school district shall be granted necessary leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this code or provided by the governing board of the district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45195. A permanent employee of the classified service who has exhausted all entitlement to sick leave, vacation, compensatory overtime, or other available paid leave and who is absent because of nonindustrial accident or illness may be granted additional leave, paid or unpaid, not to exceed six months. The board may renew the leave of absence, paid or unpaid, for two additional six-month periods or such lesser leave periods that it may provide but not to exceed a total of 18 months.

An employee, upon ability to resume the duties of a position within the class to which he was assigned, may do so at any time during the leaves of absence granted under this section and time lost shall not be considered a break in service. He shall be restored to a position within the class to which he was assigned and, if at all possible, to his position with all the rights, benefits and burdens of a permanent employee.

If at the conclusion of all leaves of absence, paid or unpaid, the employee is still unable to assume the duties of his position, he shall be placed on a reemployment list for a period of 39 months.

At any time, during the prescribed 39 months, the employee is able to assume the duties of his position he shall be reemployed in the first vacancy in the classification of his previous assignment. His reemployment will take preference over all other applicants except for those laid off for lack of work or funds under Section 45298 in which case he shall be ranked according to his proper seniority. Upon resumption of his duties, the break in service will be disregarded and he shall be fully restored as a permanent employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45196. When a person employed in the classified service is absent from his duties on account of illness or accident for a period of five months or less, whether or not the absence arises out of or in the course of employment of the employee, the amount deducted from the salary due him for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill his position during his absence.

Excepting in a district the governing board of which has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any month shall be less than the salary due the employee absent from his duties.

Entitlement to sick leave provisions under this section, if any, shall be considered "entitlement to other sick leave" for the purposes of computing benefits under the provisions of Section 45192 if the absence is for industrial accident or illness and shall be used after entitlement to all regular sick leave, accumulated compensating time, vacation or other available paid leave has been exhausted.

The foregoing provisions shall not apply to any school district which adopts and maintains in effect a rule which provides that a regular classified employee shall once a year be credited with a total of not less than 100 working days of paid sick leave, including days to which he is entitled under Section 45191. Such days of paid sick leave in addition to those required by Section 45191 shall be compensated at not less than 50 percent of the employee's regular salary. The paid sick leave authorized under such a rule shall be exclusive of any other paid leave, holidays, vacation, or compensating time to which the employee may be entitled. Nothing in this section shall preclude the governing board from adopting such a rule.

45197. (a) Every public school employer shall grant to regular classified employees an annual vacation at the regular rate of pay earned at the time the vacation is commenced. Such vacation shall be as determined by the public school employer, but not less than five-sixths of a day for each month in which the employee is in a paid status for more than one-half the working days in the month, provided the employee is regularly employed five days per week, seven to eight hours a day. An employee in a paid status for less than one-half the working days in a month shall have his vacation credit accrued on the basis provided for in subdivision (b) or (c).

(b) In lieu of accrual of vacation credit on a monthly basis and proration as prescribed in subdivision (a), a district may provide for accrual of vacation credit on any of the following bases:

(1) For all employees or classes of employees who work a full workweek of 40 hours the district shall provide 0.03846 hour of vacation credit for each hour of paid service, not including overtime.

(2) For all employees or classes of employees who work a full workweek of 37.5 hours the district shall provide 0.04087 hour of vacation credit for each hour of paid service, not including overtime.

(3) For all employees or classes of employees who work a full workweek of 35 hours the district shall provide 0.04379 hour of vacation credit for each hour of paid service, not including overtime.

(c) For all employees regularly employed for fewer than 35 hours a week, regardless of the number of hours or days worked per week, the vacation credit shall be computed at the rate of 0.03846 for each hour the employee is in paid status, not including overtime.

(d) Vacation may, with the approval of the employer, be taken at any time during the school year. If the employee is not permitted to take his full annual vacation, the amount not taken shall accumulate for use in the next year or be paid for in cash at the option of the governing board.

(e) Earned vacation shall not become a vested right until completion of the initial six months of employment.

(f) The employee may be granted vacation during the school year even though not earned at the time the vacation is taken.

(g) If an employee is terminated and had been granted vacation which was not yet earned at the time of termination of his services, the employer shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken.

(h) Upon separation from service, the employee shall be entitled to lump-sum compensation for all earned and unused vacation, except that employees who have not completed six months of employment in regular status shall not be entitled to such compensation.

(i) This section shall not apply to substitute, short-term, or limited-term employees, as they are defined in Sections 45103 and 45286, unless such employees are specifically included by the public school employer.

(j) The public school employer may expand the benefits provided for in this section.

(k) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45198. When any provision of this code expressly authorizes or requires the governing board of a school district to grant a leave of absence for any purpose or for any period of time to persons employed in positions not requiring certification qualifications, that express authorization or requirement does not deprive the governing board of the power to grant leaves of absence with or without pay to such employees for other purposes or for other periods of time, so long as the governing board does not deprive any employee of any leave of absence to which he is entitled by law.

45199. Governing boards of school districts may grant leaves of absence to persons employed in positions not requiring certification qualifications, and at their discretion may pay compensation at such rate as the board prescribes, during the absence, to any such employee whose absence is caused by accident or illness, whether or not the absence arises out of or in the course of the employment of the employee, or because of quarantine which results from his contact with other persons having a contagious disease while performing his duties.

45200. Governing boards of school districts may allow permanent classified employees to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45201. The governing boards of any school district may accept the resignation of any employee and may fix the time when the resignation shall take effect, which shall not be later than the close of the school year during which the resignation is received by the board.

45202. Any classified employee of any school district or county superintendent of schools who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with another school district or county superintendent of schools within one year of such termination of his former employment, shall have transferred with him to the second district or county superintendent of schools the total amount of earned leave of absence for illness or injury to which he is entitled under Section 45191. This transfer shall be in the same manner as is provided for certificated employees.

In any case where an employee was terminated as a result of action

initiated by the employer for cause, such a transfer may be made if agreed to by the governing board of the district or the county superintendent of schools newly employing the employee.

All or any part of the previous service, not separated by a break in service greater than one year as of the last day of paid service, may, if agreed to by the employing entity, be construed to have been served in the new district or county superintendent of schools of employment for seniority purposes, except that such previous service may not be counted, for seniority purposes, when position or personnel reduction is ordered, for any reason, by the board.

No governing board shall adopt any policy or rule, written or unwritten, which requires all classified employees, or any individual classification, or group of classifications of employees transferring to its district to waive any part or all benefits which they may be entitled to have transferred in accordance with this section.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45203. All employees a part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," September 9 known as "Admission Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (b) and (c) of Section 37220 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 or 37222 for classified or certificated employees. School recesses during the Christmas and Easter periods shall not be considered holidays for classified employees who are normally required to work during that period; provided, however, that this shall not be construed as affecting vacation rights specified in Section 45203.

Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of said holidays, he shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for

the holiday, at the rate of time and one-half his regular rate of pay.

The provisions of Article 3 (commencing with Section 37220) of Chapter 2 of Part 22 of this division shall not be construed to in any way limit the provisions of this section. nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the certificated and the classified services, or from providing holiday pay for employees who have not been in paid status on the days specified herein. Notwithstanding the adoption of separate work schedules for the certificated and the classified services, on any schoolday during which pupils would otherwise have been in attendance but are not and for which certificated personnel receive regular pay, classified personnel shall also receive regular pay whether or not they are required to report for duty that day.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45204. Notwithstanding the provisions of Section 45203, if a school district establishes a position or class of positions for which employees are required to work exclusively on weekends and holidays, and for which a special salary rate is established that recognizes the exclusive weekend and holiday peculiarity, the employees and positions may be exempted, by the personnel commission, where applicable, or the governing board from the benefits of Section 45203. No governing board may create a position or a class of positions, under this section, to avoid payment of overtime.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45205. Prior to July 1 of any school year, the governing board of any school district may designate other days during such year as the holidays to which classified employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," September 9 known as "Admission Day," or November 11 known as "Veterans Day" as specified in Section 45203, provided that such designated days will provide for at least a three-day weekend. Classified employees shall be required to work on the regular holiday for which another day is designated pursuant to this section, and for work of eight hours or less, shall be paid compensation at their regular rate of pay.

If any classified employee would be entitled to the regular paid holiday but would not be in a paid status during any portion of the working day immediately preceding or succeeding the day so designated in lieu of such holiday and therefore would not be entitled to such day in lieu of the holiday, he shall be entitled to the regular holiday; however, if he is required to work on such holiday, he shall be paid compensation at the rate of time and one-half of his regular rate of pay in addition to the regular pay received for the

holiday.

This section shall not be construed to authorize the maintenance of schools on holidays other than as provided in Article 3 (commencing with Section 37220) of Chapter 2 of Part 22 of this division.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45206. Any school district which requires any classified employee to work a workweek other than Monday through Friday, or if such classified employee consents to a workweek including Saturday or Sunday or both, pursuant to Section 44048, and as a result thereof the employee loses a holiday to which he or she would otherwise be entitled shall provide a substitute holiday for such employee, or provide compensation in the amount to which the employee would have been entitled had the holiday fallen within his or her normal work schedule.

45207. Any days of absence for illness or injury earned pursuant to Section 45191, may be used by the employee, at his election, in cases of personal necessity, including any of the following:

(a) Death of a member of his immediate family when additional leave is required beyond that provided in Section 13651.4 and that provided, in addition thereto, as a right by the governing board.

(b) Accident, involving his person or property, or the person or property of a member of his immediate family.

(c) Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.

(d) Such other reasons which may be prescribed by the governing board.

The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for the purpose of this section. No earned leave in excess of six days may be used in any school year for the purposes enumerated in this section.

Immediate family has the same meaning as provided in Section 45194.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

This section shall also apply to school districts that may be exempted from the provisions of Section 45191. Authorized necessity leave shall be deducted from sick leave earned under the provisions of the exemption of Section 45191.

45208. Every regularly employed classified school employee employed by any of the following: (a) governing board of a school district, (b) county board of education, (c) county superintendent of schools, or (d) personnel commission of a school district which has a merit system as provided in Article 6 (commencing with Section

45240) of this chapter, shall be covered for unemployment insurance pursuant to Sections 135.3 and 605.2 of, and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of, the Unemployment Insurance Code.

As used in this section, "regularly employed classified school employee" includes all persons employed pursuant to Sections 1311, 35025, 35045, 45105, 45108, 45347, and Sections 45104 and 45256 and any other similar provisions heretofore or hereafter enacted. Persons serving as substitute, short-term, part-time playground, full-time day student employed part-time where enrolled, apprentice, temporary professional expert, emergency, limited-term, or provisional employees or volunteers are, unless otherwise eligible, excluded from the meaning of the term.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

45208. Every regularly employed classified school employee employed by any of the following: (a) governing board of a school district, (b) county board of education, (c) county superintendent of schools, or (d) personnel commission of a school district which has a merit system as provided in Article 6 (commencing with Section 45240) of this chapter, shall be covered for unemployment insurance pursuant to Sections 135.3 and 605.2 of, and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of, the Unemployment Insurance Code.

As used in this section, "regularly employed classified school employee" includes all persons employed pursuant to Sections 1311, 35025, 35045, 45105, 45103, 45347, and Sections 45104 and 45256 and any other similar provisions heretofore or hereafter enacted. Persons serving as substitute, short-term, part-time playground, full-time day student employed part-time where enrolled, apprentice, temporary professional expert, emergency, limited term, or provisional employees or volunteers are, unless otherwise eligible, excluded from the meaning of the term.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

45209. The Director of Benefit Payments is the administrator of the system of unemployment insurance, as provided in Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

### Article 5. Merit System Inclusion

45220. (a) "Common board" as used in this article means a board with identical members that governs more than one school district. "Common administration" as used in this section means the administration by a person employed by governing boards of more than one district or a common board to act as chief executive officer for more than one school district.

(b) The term "a district whose average daily attendance is 3,000 or greater" shall be construed to include any district which is the only district under the jurisdiction of the county superintendent of

schools regardless of its average daily attendance. It shall also include districts governed by a "common board" or which use a "common administration," as defined in this section.

45221. (1) On or after the effective date of this section the classified employees of any district whose average daily attendance is 3,000 or greater, may, in accordance with this article, petition the governing board to make the provisions of Article 6 (commencing with Section 45240) of this chapter applicable to their employer district. Said petition shall read substantially as follows:

"We, the undersigned classified employees of the \_\_\_\_\_ (name of school district), constituting 15 percent of the classified personnel entitled to vote, request the governing board to submit to election the question of whether or not the merit (civil service) system shall become applicable to this district.

NAME POSITION CLASSIFICATION"

"Classified employee" as used in this section shall be construed to include all personnel a part of the classified service as defined in Section 45103.

(2) Within 120 days after receipt of the petition the governing board shall: (a) Obtain the services of competent and qualified persons to present the pros and cons of the issue.

(b) Provide adequate and ample opportunity for all of its classified personnel to attend one or more meetings at which the issue is presented.

(c) Having complied with subsections (a) and (b), foregoing, conduct an election by secret ballot of its classified personnel to determine whether or not they desire to have the merit system applicable to the district. The ballot shall read:

"Shall the merit (civil service) system for classified employees be applicable in the \_\_\_\_\_ (name of school district)?

- Yes
- No"

The ballot shall not require the employees' signatures or other personal identifying requirements, but the board shall devise an identification system to insure against fraud in the balloting process.

(d) The board shall appoint a three- or five-person tabulating committee, at least one member of which shall be a member of the governing board, to canvass the ballots and present the results to the governing board. If a simple majority votes in favor of the merit system the same shall become applicable in the district.

(e) The tabulating committee required by this section shall certify the results of the election to the governing board at the next regular or special meeting of the board following the date the committee completes tabulation of the votes. If the tabulating committee completes the tabulation on the same day as the governing board meets in regular or special session, the committee shall certify the results of the election to the board at such meeting.

45222. Effective upon certification to a governing board by a tabulating committee that an election, as authorized in Section 45221

of this code, has been successful, all of the provisions of Article 6 (commencing with Section 45240) of this chapter that can reasonably be construed to be applicable to classified employees shall be applicable.

All of the provisions of Article 6 (commencing with Section 45240) of this chapter shall become fully effective upon appointment of at least two members of the personnel commission.

The commission shall immediately adopt existing rules and regulations of the district relating to classified personnel pending the establishment of its rules and which are not inconsistent with law.

45223. The governing board of a school district whose average daily attendance is less than 3,000 may, by affirmative vote of a majority of its members, adopt the procedure set forth in Article 6 (commencing with Section 45240) of this chapter. The motion or a resolution for adoption of the system shall specify the date that the provisions of Article 6 shall be applicable to the classified employees of the district, which shall not be later than July 1 next following the date of adoption.

45224. The governing board of a school district whose average daily attendance is 3,000 or more may, by affirmative vote of a majority of its members, and a county superintendent of schools, with the consent of the majority of the members of the county board of education, adopt the procedure set forth in Article 6 (commencing with Section 45240) of this chapter, provided a lawful petition has not been received as authorized in Section 45221, or may adopt the procedure at any time after a two-year period has elapsed following an unsuccessful election conducted in accordance with Section 45221 of this code.

The motion, order, or resolution for adoption of the procedure shall specify the date that the provisions of Article 6 shall be applicable to classified employees, which shall not be later than July 1 next following the date of adoption.

45224.5. The procedure set forth in Article 6 (commencing with Section 45240) of this chapter may also be adopted by a majority of the voting electors of the school districts assenting to the plan after it has been placed on the ballot upon the written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the governing board. The question of adoption shall be placed on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is earlier after receipt of the petition by the registrar of voters.

The ballot measure shall specify the date that the provisions of Article 6 (commencing with Section 45240) of this chapter shall be applicable to classified employees, which shall not be later than July 1 next following the date of adoption.

45225. When an election has been held, as authorized in this article, and fails to receive a simple majority affirmative vote, the classified employees of that district may not again petition for an

election until at least two years has elapsed since the last election.

45226. Any person who intimidates, coerces, or discriminates in any way against any classified employee for the doing of any act authorized herein shall be personally liable to such employee for all damages suffered thereby and such exemplary damages as the court may allow.

#### Article 6. Merit System

45240. Any school district adopting the provisions of this article in accordance with Section 45222 or 45224.5 shall cause the personnel commission to be appointed in the manner prescribed in Sections 45245, 45246 and 45247. The personnel commission shall appoint the personnel director in the manner provided in Section 45264 after appointment of at least two of its members.

45241. In any district in which the procedure set forth in this article has been incorporated the governing board shall employ, pay, and otherwise control the services of persons in positions not requiring certification qualifications only in accordance with the provisions of this article.

No governing board shall remove a position from the classified service by title assignment or otherwise which would then require an incumbent to be credentialed if such position is not required by this code to be designated as certificated.

45243. In any district which has adopted the provisions of this article there shall be appointed a personnel commission composed of three members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In such cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

45244. To be eligible for appointment or reappointment to the commission a person shall (a) be a registered voter and resident within the territorial jurisdiction of the school district and (b) be a known adherent to the principle of the merit system. No member of the governing board of any school district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the commission. During his term of service, a member of the commission shall not be an employee of the school district.

As used in this section, "known adherent to the principle of the merit system," with respect to a new appointee, shall mean a person who by the nature of his prior public or private service has given evidence that he supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness. As used in this section, "known adherent to the principle of the merit system," with respect to a candidate for reappointment, shall mean a commissioner

who has clearly demonstrated through meeting attendance and actions that he does, in fact, support the merit system and its operation.

45245. One member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an organization of classified employees which represents the greatest number of classified employees of the district as determined by the board exercising its authority under Section 7110. If there is no such organization existing within the district the governing board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.

45246. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee, and the appointee nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the two members shall appoint the third member. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If such two members do not make an appointment within the 30-day period, the Executive Officer of the State Personnel Board shall make the appointment.

"Adoption of the system" means, in the case of Section 45221, the day on which a successful election is certified to the governing board or, in the case of Section 45224, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee of the governing board and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

(c) Where a system is already in existence and a vacancy in the position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and subdivision (b) (1), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons

recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board shall then appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 45248. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

45247. An appointee to a commission in a district which has newly adopted the system shall take office upon receipt of notification of his appointment but his term of office shall run from noon of the first day of December next succeeding.

The initial appointee of the governing board shall serve a three-year term, and the term of the appointee recommended by classified employees and the Executive Officer of the State Personnel Board shall be for two years and one year respectively.

Subsequent terms shall be for three years commencing at noon the first day of December.

The commission may perform any act authorized or required by law when two members have been appointed.

45248. (a) Appointment to vacancies occurring subsequent to the initial appointment shall be made by the original appointing authority either for a new full term or to fill an unexpired term. The procedures required in Sections 45245 and 45246 shall be followed in the appointment and recommendation for appointment to fill vacancies occurring subsequent to the initial appointments.

(b) Notwithstanding subsection (a) the governing board at the request of the personnel director shall declare that an emergency exists and shall make an interim appointment to fill a vacancy or vacancies to insure the continuance of the functions of the personnel commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

(c) An interim appointee must meet the requirements of Section 45244 and be free of the restrictions contained therein.

(d) An interim appointment in no event shall be valid for more than 60 days.

45249. In a school district which has already adopted the provisions of this article on September 17, 1965, members of the personnel commission shall continue to be appointed alternately by the Superintendent of Public Instruction and by the Executive Officer of the State Personnel Board, each of whom may consider the recommendation of the governing board and other interested parties.

45250. The governing board may authorize payment to members of the commission an amount not to exceed fifteen dollars (\$15) per meeting and not to exceed seventy-five dollars (\$75) per month.

45251. In a unified school district with an average daily attendance in excess of 400,000, the governing board may authorize payment to members of the commission an amount not to exceed fifty dollars (\$50) per meeting, and not to exceed two hundred fifty dollars (\$250) per month.

45252. The governing board shall provide the commission with suitable office accommodations.

45253. The commission shall prepare an annual budget for its own office which, upon the approval of the county superintendent of schools, shall be included by the governing board in the regular budget of the school district. The annual budget of the commission may include amounts for the purposes of Section 45255.

The budget shall be prepared for a public hearing by the commission to be held not later than May 30 of each year. The commission shall forward a copy of its proposed budget to the governing board indicating the time, date and place for the public hearing of the budget and shall invite board and district administration representatives to attend and present their views. The commission shall fully consider the views of the governing board prior to adoption of its proposed budget. The commission shall then forward its proposed budget to the county superintendent of schools for action.

If the county superintendent of schools proposes to reject the budget as submitted by the commission, he shall, within 30 days after the commission's submission of the budget, hold a public hearing on the proposed rejection within the affected district. He shall have informed both the commission and the governing board of the date, time and place of the hearing. He may after such public hearing either reject, or, with the concurrence of the commission, amend the proposed budget. In the absence of agreement between the personnel commission and the county superintendent the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

45254. The budget for the first year shall be determined by the governing board. Pending receipt of money raised in the manner prescribed in this article, the governing board may advance funds for the establishment of the work of the commission.

45255. The commission may, with respect to the staff of the commission, expend funds for their orientation, training, retraining, and development and for any purpose prescribed by Article 9 (commencing with Section 45380) of this chapter.

45256. The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service. The employees and positions shall be known as the classified service. Exempt from the classified service shall be:

- (a) Positions which require certification qualifications.
- (b) Part-time playground positions.
- (c) Full-time students employed part time.
- (d) Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of Division 4 of this title and which is financed by state or federal funds.

(e) Apprentice positions.

(f) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87½ percent of the normally assigned time of the majority of employees in the classified service.

45257. Nothing contained in Section 45256 shall be interpreted to exclude the employment of architectural and engineering firms employed on a temporary basis for a specific project by a governing board or the commission when so designated by the commission.

45258. In addition to the exemptions authorized in Section 45256, there shall be exempt from the classified service positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days in a fiscal year, provided that:

(1) The authorized duties are not those normally assigned to a class of positions in the classified service,

(2) The authorized duties are approved by the personnel commission in advance of employment, and

(3) A regular classified employee of the school district shall not receive a concurrent appointment to such a position.

45259. If the governing board of any school district establishes positions and restricts initial appointment of new employees to persons having mental handicaps, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that

they shall not require permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 45105.

45260. The commission shall prescribe and amend, subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall be binding upon the governing board.

45261. The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, service ratings, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

45262. The rules of the commission and copies of this article shall be printed and made available to each school, office, and permanent worksite where employees report and shall be distributed to school libraries for loan to employees.

Within one year of when a district adopts the merit system, the commission shall adopt rules pursuant to Section 45260 and shall give to each new regular employee a handbook which summarizes the basic rules and working conditions for classified employees and provides information regarding access to copies of the complete rules and the merit system.

45263. The commission may classify as apprentice positions certain positions where the principal requirement is that of learning to perform efficiently, by study and practice, specific duties concerning which a definite plan of systematic instruction and special supervision has been approved by the California Apprenticeship Council for the designated trade.

The apprenticeship training plan adopted by the governing board of the school district must be approved by the California Apprenticeship Council.

No assignment to any position classified as an apprentice position shall be allowed to continue beyond the predetermined apprenticeship period approved by the California Apprenticeship Council for the designated trade, except that the school district's joint apprenticeship committee may approve retention of an employee as an apprentice up to six months beyond the predetermined apprentice period.

Selection of eligibles shall be made in accordance with their position on employment lists established by competitive or qualifying examinations.

The provisions of Section 45134 shall be applicable to apprentice positions, provided that relative age may be considered as a factor in

the ranking of candidates for apprentice positions.

Credit for prior training in a regularly indentured apprenticeship program shall be given to qualified candidates.

In all cases of apprenticeship probationary periods, the standards of duration and qualifications shall be fixed by the commission insofar as they do not exceed the maximum standards set up by the California Apprenticeship Council. Termination for cause may be prescribed for any apprentice who fails to attain the predetermined standards of apprenticeship or for causes as prescribed by the rules of the commission.

The commission shall recommend to the governing board a graduated scale of compensation rates for the various levels of apprentices, taking into consideration the percentage relationship to the districts' journeyman wage of the trade as provided in the statement of policies of the California Apprenticeship Council.

The commission may determine that promotional examinations shall be held for entrance into various levels of apprentice positions and entrance into journeyman positions in a skilled trade.

45264. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall also appoint all other employees paid from funds budgeted for the support of the commission from eligibility lists established pursuant to the provisions of this article. Such employees shall be classified employees of the school district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district.

45265. Notwithstanding the provisions of Section 45264, the personnel commission, in a school district or a county superintendent of schools office employing 100 or fewer classified employees, may, with the consent of a majority of the classified employees, contract for the services of a qualified personnel director with another school district having the merit (civil service) system, or a city or a county governmental agency if the city or county has a civil service system for the management of its employee personnel.

Such a contract shall be for not more than two years and may be extended, with the approval of a majority of the classified employees, for additional periods not to exceed two years at one time.

If at the end of any contract period the district or county superintendent's office is employing more than 100 classified employees, the personnel commission shall then comply with the provisions of Section 45264.

A contract approved under the provisions of this section shall become null and void in the event of district reorganization when the provisions of the contract, if continued in force would supersede or be in conflict with the provisions of Sections 45119 or 45120.

45266. The personnel director shall be responsible to the commission for carrying out all procedures in the administration of

the classified personnel in conformity with this article and the rules of the commission. He shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board.

45267. The provisions of Sections 45123, 45124, 45160, 45198, 45199, 45201, and 45202 are applicable to the employees of school districts which have adopted a merit system pursuant to the procedure set forth in this article.

This section is declaratory of existing law. The sections here enumerated are to be construed and applied in the same manner and with the same effect as when they were applicable to the employees of such school districts prior to the enactment of Section 45100 by Chapter 1267 of the Statutes of 1959, and in accordance with the applicable provisions of this article and the rules of the Personnel Commission.

45268. The commission shall recommend to the governing board salary schedules for the classified service. The governing board may approve, amend, or reject these recommendations. No amendment shall be adopted until the commission is first given a reasonable opportunity to make a written statement of the effect the amendments will have upon the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the commission.

45269. Any person who has been continuously employed in a position defined as a position in the classified service for a period of six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to be in the permanent classified service. No layoff or suspension of service during the time when the schools of the district are not in session shall count as an interruption of continuous service.

45270. All persons who have been continuously employed by a school district for less than six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to hold their positions under probationary classification.

45271. Any employee serving in a certificated position whose position is by virtue of change of law deemed to be in the classified service shall without examination become a member of the classified service in accordance with the terms of Sections 45269 and 45270. Full seniority rights shall be retained, except that no seniority credit shall be allowed by virtue of previous certificated service in case of layoff for lack of funds or lack of work.

Any employee serving in a classified position whose position is by virtue of change of law deemed to be in the certificated service shall without examination become an employee of the certificated service and shall be deemed to have the necessary certification qualifications for such position. Full seniority rights will be retained, except that no seniority credit will be allowed by virtue of previous classified service in case of layoff for lack of funds or lack of work. Any such person who

has been continuously employed in a regular position in the classified service for the length of time necessary to acquire permanency as a certificated employee shall be deemed to be a permanent certificated employee of the district. Any such person serving in a regular position in the classified service for an amount of time less than that deemed to be necessary to acquire permanency as a certificated employee shall be a certificated probationary employee of the district; such regular classified service shall be considered as probationary service toward the attainment of permanency by a certificated employee of the district.

45272. All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. Appointments shall be made from the first three applicants on the eligibility list who are ready and willing to accept the position. In examinations for classes designated as technical, professional, administrative, or executive by the commission, final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

45273. Examinations shall be administered objectively and shall consist of at least two independent parts.

For classes of positions deemed by the commission to require an oral examination, the oral examination board shall include at least two members.

Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area. Members of the governing board or personnel commission shall not serve on an oral examination board. A district employee may serve on an oral examination board if he is not at the first or second level of

supervision over a vacant position in the class for which the examination is held.

The personnel commission shall provide for the proceedings of all oral examinations to be electronically recorded. In no case will an oral examination board be provided with confidential references on employees of the district who are competing in promotional examinations. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board.

45274. Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate, shall be retained by the commission for a period of not less than 90 days after promulgation of an eligibility list. The commission shall prescribe procedures whereby candidates may review and protest any part of an examination. In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the eligibility list. Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his representative.

45275. In a school district which has already adopted the provisions of the merit system article on September 17, 1965, appointments shall be made from the first three applicants on the eligibility list who are ready and willing to accept a position, provided that: (a) one of the top two eligibles is a relative, within the first degree of consanguinity, of an employee already working at the location where a specific position vacancy exists, or (b) one is the parent or legal guardian of an enrollee in the same elementary or secondary school or children's center where a specific position vacancy exists.

45276. The governing board shall fix the duties of all positions a part of the classified service as required by Section 45109. The board may recommend the minimum educational and work experience requirements for classified positions to the personnel commission. Minimum qualification requirements shall be subject to approval of the commission.

In approving minimum educational and work experience requirements for classified positions, the commission shall insure that such requirements reasonably relate to the duties of the position, as established by the governing board, and that they will admit an adequate field of competition. No requirements may be approved which unduly or unreasonably restrict the field of competition.

The position duties shall be prescribed by the board and qualification requirements for the position class shall be prepared and approved by the commission, required by this section, prior to issuance of an announcement calling for a competitive examination to fill position vacancies.

45277. Appointments may be made from other than the first two or three, as the case may be, applicants on the eligibility list when the ability to speak, read, or write a language in addition to English or possession of a valid driver's license is a requirement of the position to be filled. The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class. Where such a position is to be filled, using the authority of this section, the appointment shall be made from among the highest two or three, as the case may be, applicants on the appropriate eligibility list who meet the special requirements and who are ready and willing to accept the position. If there are insufficient applicants who meet the special requirements, the commission shall certify the top applicant or applicants plus those applicants who meet the special requirements, not to exceed two or three candidates, as the case may be.

45278. Written notices concerning tests, vacancies, transfer opportunities, and other such selections of shifts, positions, assignments, classifications, or locations shall be posted at all work locations of employees who may be affected not later than 15 working days prior to the closing date of filing appropriate applications, together with the normal use of newspapers and bulletins for public notice for open or promotional vacancies. Whenever the subject of such notices may affect a probationary or permanent classified employee who will not be reporting at his work location during periods when such employee is not normally required to work, such as Christmas, Easter, summer recesses, and other paid or unpaid leaves of absences, including vacations, and who has previously requested notification, such notices shall be mailed to the employee. However, the failure of an employee to receive such notice shall not invalidate any procedure, if in fact the notice was placed in the mail and postage paid.

The foregoing provisions shall not apply to any school district which publishes and distributes to all work locations examination bulletins at least once each month, provided that records of employee requests for transfer and change of location are maintained and that the names of all candidates for transfer and change of location to a vacancy are certified to the appointing authority along with names of appropriate applicants from employment lists.

The personnel commission shall establish procedures for the maintenance of employee requests for transfer, change of location, change of shift, and notification of forthcoming examinations.

45279. A regular employee who is determined by the governing board to be incapable of performing the duties of his class because of illness or injury may, at the discretion of the governing board, be assigned duties which he is capable of performing. The position to which he is assigned shall be subject to classification by the personnel commission, but the employee shall receive no increase in a wage or

salary because of his assignment to the position unless he is appointed from an eligibility list resulting from a competitive examination. In the event that the position is classified and allocated to a higher wage or salary than that previously attained by the employee, he may be assigned to the position without competitive examination, but shall continue to receive the wage or salary of his former classification. If the position is classified and allocated to a lower wage or salary than that attained by the employee, he shall be paid the wage or salary appropriate to the position.

45280. The commission shall, by rule, provide for an open competitive examination and a promotional examination to be held at the same time for the position of business manager or for any other single position class which it declares to be at or above the level of business manager. It shall require that all educational and work experience requirements be developed to fit the needs of the position in such a manner that the position will attract competent and qualified applicants from within the classified service, among certificated personnel, or other persons meeting the minimum requirements established for the position.

Such rule shall provide: (a) that all permanent employees of the district, classified and certificated, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates; (b) that promotional credits, including seniority credits, if any, shall be equally applicable to both classified and certificated promotional candidates; (c) that eligibility lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any; and (d) that the examination for any such position shall not be construed to be an entrance level position examination.

45281. The commission may by rule provide for the competition of persons employed by the governing board in positions required to have certification qualifications in promotional examinations for positions in the classified service.

45282. The commission shall, by rule, provide for an open competitive examination and a promotional examination to be held at the same time for the positions that existed or could be created, when such positions become available for competitive examination, under the provisions of subdivisions (m), (n), and (o) of Section 44065 as those subdivisions existed prior to their repeal by action of the 1965 General Session of the Legislature.

Such rule shall provide: (a) that all permanent employees of the district, classified and certificated, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates; (b) that promotional credits, including seniority credits, if any, shall be equally applicable to both classified and certificated promotional candidates; (c) that eligibility

lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any; and (d) that the examination for any such position shall not be construed to be an entrance level position examination.

45283. In any school district which has geographical boundaries encompassing more than 200 square miles and which divides the area it serves into smaller areas for assignment of classified personnel, when an eligibility list is exhausted in one assignment area but there are available eligibles in another assignment area, an area eligibility list may be established for the assignment area in which the eligibility list is exhausted. The life of such new area eligibility list shall be one year. Seniority for the purpose specified in Section 45308 shall continue to be districtwide.

45284. When an open competitive examination and a promotional examination for a particular class are held at the same time, the commission may prior to the examination authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted if (1) the candidate on the open list has a higher score before adjustment for preferential credits than the score of the highest available candidate on the promotional list after seniority credits have been added, and also if (2) either the class has fewer than three positions in the class or the most recent promotional examination for the class has failed to provide an adequate number of available eligibles on a promotional list to fill all regular vacancies which developed during the first year of the life of the eligibility list.

45285. When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for three or more years may be reclassified with their positions by the personnel commission. When a portion of the positions within a class are reclassified to a higher class an incumbent who has a continuous employment record of three or more years in one or more of the positions being reclassified may be reclassified with his position as provided by personnel commission rule.

The basis for reclassification of the position must be a gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determinations as to gradual accretion will be on the basis of guidelines provided by personnel commission rules.

An employee who has been reclassified with his position shall be ineligible for subsequent reclassification with his position for a period of at least three years from the initial action.

45286. Whenever the appointing power shall require the appointment of a person to a position, the duration of which is not to exceed six months, or, in case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of said

employee, he shall submit a request in which the probable duration of the appointment is stated. Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as limited-term employees. Limited-term employees shall be subject to such conditions affecting status and tenure during and after such employment as the commission may by rule determine.

45287. When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days. A 90-calendar-day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity. No person shall be employed in provisional capacities under a given governing board for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position, as defined in Section 45256, successive 90 working days provisional appointments may be made to the part-time position for a total of more than 126 working days in any one fiscal year.

45288. The personnel commission may authorize the extension of a provisional employee's assignment for a period not to exceed 36 working days provided the following requirements are met:

(a) An examination for the class was completed during the first 90 working days of his provisional assignment.

(b) Evidence satisfactory to the personnel commission is presented indicating:

(1) That an adequate recruitment effort has been and is being made.

(2) That extension of the provisional assignment is necessary to carry on vital functions of the district.

(3) That the position cannot be satisfactorily filled by use of other employment lists or procedures.

45289. Successive provisional appointments of 90 working days or less each may be made in any class in the absence of an appropriate eligibility list; provided, that continuous examination procedures for the class have been authorized by the commission. Such successive provisional appointments may be made and persons employed in temporary capacities under a given governing board for a total of more than six months in any one year. Such appointments may continue for the length of time for which they were made, but may not be extended if a certification can be made from an appropriate eligibility list. While this section is in effect, it shall supersede any other provisions of this article (commencing at Section 45240) which are in conflict with this section, but only to the extent there is a conflict.

45290. The appointing power may, to prevent the stoppage of public business when an actual emergency arises and persons on eligibility lists are not immediately available, make appointments for a period not to exceed 15 working days, in accordance with

commission rule.

45291. Combinations of successive eligibility lists may be made during their first year. Eligibles on lists established within the first year of the life of another list may be placed in the order of their relative excellence in the examination on the like list, if lists so merged have been promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

45292. The commission may by rule provide for the continuous examination of eligibles for classes of positions which the commission determines cannot be practicably filled by promotional examination only.

45293. No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, sex, or marital status shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor.

45294. "Veteran" as used in this article means any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable, proof of which shall be submitted to the commission at the time of the examination.

"Armed forces" means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.

45295. "Disabled veteran" as used in this article means any veteran, as defined in Section 45294, who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

45296. In the case of all entrance examinations, veterans with 30 days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five points and disabled veterans shall be allowed an additional credit of 10 points, which shall be added to the percentages attained in the examinations by the veterans. Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after the credit of five points, or 10 points in the case of disabled veterans, is added.

45297. Whenever during the absence of an employee of a school district or student body association operating under Sections 48930 to 48937, inclusive, in the active military service of the United States of America during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, the position held by such employee at the time of his entrance into such military service is placed within the classified service of the district and an eligible

list is established for such position through competitive examination, the employee shall, at his request made within six months after his leaving such active military service under honorable conditions, be given forthwith an examination of substantially the same character and scope as the competitive examination through which the original eligibility list was established. The grade secured by such employee in such examination shall be deemed to be the grade he would have secured had he taken the competitive examination as a veteran and he shall be placed on the original eligibility list accordingly with all the rights and privileges to which he would have been entitled had he had such place on the original eligibility list at the time of its establishment.

45298. Persons laid off because of lack of work or lack of funds are eligible to reemployment for a period of 39 months and shall be reemployed in preference to new applicants. In addition, such persons laid off have the right to participate in promotional examinations within the district during the period of 39 months.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to 24 months; provided, that the same tests of fitness under which they qualified for appointment to the class shall still apply. The personnel commission shall make the determination of the specific period eligibility for reemployment on a class-by-class basis.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time, but if there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority.

45299. Any classified employee who, after June 1, 1969, and prior to August 17, 1972, took a voluntary demotion or voluntary reduction in assigned time in lieu of layoff, and who continues to be in such status on September 23, 1974, shall, on and after September 23, 1974, be accorded the rights and benefits of the amendments to former Section 13737 made by Chapter 1034 of the Statutes of 1972; provided, however, that no appointment to a position made from a valid employment or promotional list subsequent to March 7, 1973, and prior to August 15, 1974, shall be nullified or otherwise affected by this section.

45300. Eligibility lists shall be established for a period of not less than one year except that when a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it

before a year has expired. A list may be extended for an additional period of one year or less in the discretion of the commission.

45301. A person who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission shall be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. No employee shall attain permanent status in the classified service until he has completed a probationary period in a class. In any case the rules of the commission may provide for the exclusion of time while employees are on a leave of absence. The rights of appeal from disciplinary action prior to attainment of permanent status in the classified service shall be in accordance with the provisions of Section 45305.

45302. No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service. This section shall not be construed to prevent layoffs for lack of work or lack of funds.

45303. In addition to any causes for suspension or dismissal which are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

(a) Knowing membership by the employee in the Communist Party.

(b) Violation of any provision in Sections 7001 to 7006, inclusive, of this code.

(c) Conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

45304. For reasonable causes an employee may be suspended without pay for not more than 30 days except as provided in this section or may be demoted or dismissed. In such case the personnel director shall within 10 days of the suspension, demotion, or dismissal file written charges with the commission and give to the employee or deposit in the United States registered mail with postage prepaid, addressed to the employee at his last known place of address, a copy of the charges.

Whenever an employee of a school district is charged with the commission of any sex offense as defined in Section 44010 or any narcotics offense as defined in Section 44011, or a violation of subdivision 1 of Section 261 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to, any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code by complaint, information or indictment filed in a court of competent jurisdiction, the governing board of the school district may

immediately suspend the employee for a period of time extending for not more than 10 days after the date of the entry of the court judgment; provided, that the suspension may be extended beyond such 10-day period in case the governing board gives notice within such 10-day period that it will dismiss the employee 30 days after the service of the notice, unless he demands a hearing. An employee so suspended shall continue to be paid his regular salary during the period of the suspension if and during such time as he furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him during the period of the suspension in case the employee is convicted of such charges, or he does not return to service after such period of suspension. If the judgment determines that the employee is not guilty of such charges, or if the complaint, information or indictment is dismissed, the school district shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the school district shall pay to the employee his full compensation during the period of the suspension; provided, he returns to service after such period of suspension.

45305. Any employee in the permanent classified service who has been suspended, demoted, or dismissed may appeal to the commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges. Such an appeal is not available to an employee who is not in the permanent classified service except as provided by rules of the commission. An employee in the permanent classified service who has not served the time designated by the commission as probationary for the class may be demoted to the class from which promoted without recourse to an appeal or hearing by the commission, except as otherwise provided by rules of the commission; and provided, that such demotion does not result in the separation of the employee from the permanent classified service. Nothing in this section shall operate to alter the protections guaranteed under Section 45309.

45306. The commission shall investigate the matter on appeal and may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the right to appear in person or with counsel and to be heard in his own defense. The decision shall not be subject to review by the governing board.

45307. If the commission sustains the employee, it may order paid all or part of his full compensation from the time of suspension, demotion, or dismissal, and it shall order his reinstatement upon such terms and conditions as it may determine appropriate. The commission may modify the disciplinary action, but may not make the action more stringent than that approved by the board. In addition, the commission may direct such other action as it may find necessary to effect a just settlement of the appeal, including, but not limited to, compensation for all or part of the legitimate expenses

incurred in pursuit of the appeal, seniority credit for off-duty time pending reinstatement, transfer or change of location of the employee, and expunction from the employee's personnel record of disciplinary actions, cause, and charges which were not sustained by the commission. Upon receipt of the commission's written decision the board shall forthwith comply with the provisions thereof. When the board has fully complied with the commission's decision it shall so notify the commission in writing.

45308. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 45128.

Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on military leave of absence, or unpaid illness leave, or unpaid industrial accident leave.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

45309. Any permanent classified employee of a school district who voluntarily resigns from his permanent classified position may be reinstated or reemployed by the governing board of the district, within 39 months after his last day of paid service and without further competitive examination, to a position in his former classification as a permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class or a lower class in which the employee formerly had permanent status.

If the governing board elects to reinstate or reemploy a person as a permanent employee under the provisions of this section, it shall disregard the break in service of the employee and classify him as, and restore to him all of the rights, benefits and burdens of a permanent employee in the class to which he is reinstated or reemployed.

45310. No warrant shall be drawn by or on behalf of the governing board of any district for the payment of any salary or wage to any employee in the classified service unless the assignment bears the certification of the personnel director that the person named in the assignment has been employed and assigned pursuant to this article and the rules of the commission.

Whenever the commission, after a public hearing, finds that any appointment has been made in violation of this article or the rules

of the commission as they apply to examination procedures, the commission may order that no salary warrant shall thereafter be drawn to the employee so appointed, for services rendered after the date of said order. Any violation of this article or the rules of the commission as they apply to examination procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

45311. The commission may conduct hearings, subpoena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with. Hearings may be held by the commission on any subject to which its authority may extend as described in this article.

45312. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

45313. The counsel of the governing board shall aid and represent the commission in all legal matters, and if he refuses, the commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the district.

45314. No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations. No person in the classified service shall engage in political activities during his assigned hours of employment.

45315. No member of the governing board in any district in which the procedure has been adopted shall directly or indirectly solicit or be concerned in soliciting any assessment, contribution, or political service of any kind whatsoever for any political purpose from any person who is in the classified service or who is upon any eligibility list.

45316. No officer or employee of any governing board of any district in which the procedure has been adopted shall directly or indirectly coerce or attempt to coerce or in any way bring pressure or attempt to bring pressure upon any other such officer or employee, to support or refrain from supporting any political group for any political purpose whatever.

45317. Any person who willfully or through culpable negligence violates any of the provisions of this article is guilty of a misdemeanor. It is also unlawful for any person:

(a) Willfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his right of examination, application, or employment under this article or commission rule.

(b) Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or commission rule, or to aid in so doing, or make any false representation concerning the same or the person examined.

(c) Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this article or commission rule.

45318. In every school district coterminous with the boundaries of a city and county, employees not employed in positions requiring certification qualifications shall be employed, if the city and county has a charter providing for a merit system of employment, pursuant to the provisions of such charter providing for such system and shall, in all respects, be subject to, and have all rights granted by, such provisions; provided, however, that the governing board of the school district shall have the right to fix the duties of all of its noncertificated employees.

45319. If the governing board of a school district receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the governing board calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years, the governing board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

“Shall the merit (civil service) system for school employees not requiring certification qualifications, as provided for in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25, of Division 3 of Title 2 of the Education Code of the State of California, and which has been in operation for at least five years, be terminated by the \_\_\_\_\_ School District of \_\_\_\_\_ County (or counties, where

appropriate) on \_\_\_\_\_ (date to be specified by governing board)?”

The petition calling for the election, to be valid, must contain the statement of purpose for the election as contained in this section.

45320. If the majority of the qualified electors vote to terminate the merit system in a school district, the personnel commission shall cease to function on the date specified in the election and the law pertaining to merit system districts shall cease to have any force or effect in that district.

Simultaneously, with the termination of the merit system, the governing board shall adopt rules and regulations relating to classified school employees as required by Section 45113.

Notwithstanding an action to terminate the merit system in a school district, the provisions of Section 45221 shall be applicable at any time after at least two years have elapsed after the system has ceased to operate.

#### Article 7. Instructional Aides

45340. This article may be cited as the Instructional Aide Act of 1968. The provisions of this article shall apply to personnel referred to in Sections 35021, 44833, 44835, 54422, 54481, 54482, 54525, or any other section heretofore or hereafter enacted, who perform the duties of instructional aides.

45341. The Legislature recognizes the need to provide classroom teachers and other certificated personnel with more time to teach and to provide the means for them to utilize their professional knowledge and skills more effectively in the educational programs of the public schools. It is the intent of the Legislature to authorize the employment of instructional aides in order that classroom teachers and other certificated personnel may draw upon the services of such aides to assist them in ways determined to be useful in improving the quality of educational opportunities for pupils.

45342. Instructional aides shall not be utilized to increase the number of pupils in relation to the number of classroom teachers in any school, any school district, or in the state. Notwithstanding the foregoing provisions, class size ratios existing in special education classes prior to November 13, 1968, may be maintained or decreased, but not increased, by use of instructional aides.

All instructional aide positions in a school district shall be assigned the basic title of “instructional aide” or other appropriate title designated by the governing board. To provide for differences in responsibilities and duties, additions to the basic title may be assigned such as “instructional aide I or II” or “instructional aide—volunteer,” or other appropriate title.

45343. (a) As used in this article, “instructional aide” means a person employed to assist classroom teachers and other certificated personnel in the performance of their duties and in the supervision of pupils and in instructional tasks which, in the judgment of the

certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher.

(b) "Any school district" means a school district or a county superintendent of schools who employs classroom teachers in the public schools.

45344. (a) Subject to the provisions of this article, any school district may employ instructional aides to assist classroom teachers and other certificated personnel in the performance of duties as defined in Section 45343. An instructional aide shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to pupils. An instructional aide need not perform such duties in the physical presence of the teacher but the teacher shall retain his responsibility for the instruction and supervision of the pupils in his charge.

(b) Educational qualifications for instructional aides shall be prescribed by the school district employer and shall be appropriate to the responsibilities to be assigned.

45345. Notwithstanding the provisions of Section 48950, no instructional aide shall give out any personal information concerning any pupil who is not his own child or ward, except under judicial process, to any person other than a teacher or administrator in the school which the pupil attends. A violation of this section may be a cause for disciplinary action, including dismissal.

45346. Classroom teachers and other certificated personnel shall not be required to hold a standard supervision credential or a standard administration credential as a prerequisite to the supervision and direction of instructional aides.

45347. (a) An instructional aide shall not be deemed a certificated employee for the purposes of apportioning state aid and no regrouping of pupils with instructional aides shall be construed as a class for apportionment purposes.

(b) Instructional aides shall be classified employees of the district, and shall be subject to all of the rights, benefits, and burdens of the classified service, except as specified in Section 45105 for "restricted" positions.

45348. The school district shall pay to each person employed as an instructional aide compensation at a rate not less than the minimum hourly rate prescribed by federal law.

45349. Notwithstanding the provisions of this article, or any other provisions of law, a school district may utilize volunteers in the supervision and instruction of pupils, but any such volunteer shall be subject to the provisions of Section 35021 and this article.

#### Article 8. Teacher Aides

45360. It is the intent and purpose of the Legislature that teacher aides be employed in the elementary schools of the state, specifically

in grades one through six, to the end of assisting classroom teachers in carrying out activities directly related to the classroom instruction of pupils. From the moneys specially appropriated therefor by the Legislature, grants shall be made to school districts pursuant to the specifications of this article for teacher aide projects approved by the State Board of Education.

45361. The State Board of Education shall establish rules and regulations for the administration of this article which shall include, but not be limited to, the criteria upon which grants shall be made within the amounts appropriated by the Legislature and among the several districts of the state which may apply for such grants.

45362. School districts shall establish standards and procedures for the implementation and conduct of teacher aide projects, authorized under the provisions of this article, which shall meet, but not be limited to, the provisions of Section 45361. Such standards and procedures shall be made a part of a school district grant application as described in this article.

45363. The State Board of Education shall direct that apportionment grants for teacher aide projects be made to school districts on the basis of two thousand dollars (\$2,000) per school year per teacher aide employed, diminished by an amount derived by multiplying the ratio which the assessed valuation per unit of average daily attendance during the preceding fiscal year in grades kindergarten through eight in the district bears to the assessed valuation per unit of such average daily attendance in the state times one thousand dollars (\$1,000).

45364. All funds received by school districts under the provisions of this article shall be used for and restricted to the purpose of paying the salaries of teacher aides employed under the provisions of this article.

45365. Apportionments for the purpose of this article shall be made upon the order of the Superintendent of Public Instruction and by warrant of the State Controller. Funds apportioned shall be expended by school districts precisely in accordance with the rules and regulations established by the State Board of Education.

45366. Apportionments to a school district shall be in the form of grants, no part of which shall be required to be repaid to the state by the school district.

45367. Programs on projects conducted pursuant to this article shall be deemed a program of compensatory education, or an element thereof, and shall be coordinated with, and be an integral part of, the school district's overall compensatory education plan. The programs and projects shall be subject to the provisions of Section 54461.

#### Article 9. Retraining and Study

45380. In enacting this article the Legislature recognizes that technological and other changes are occurring which may displace

otherwise desirable classified employees in the public school systems of the state. The Legislature intends that the enactment of this article will encourage classified employees to prepare themselves for the changes that are occurring and will also encourage governing boards to utilize the article to further study and retraining by classified personnel.

45381. The governing board of any school district may grant any classified employee a leave of absence not to exceed one year for the purpose of permitting study by the employee or for the purpose of retraining the employee to meet changing conditions within the district.

The governing board may provide that such a leave of absence shall be taken in separate six-month periods or in any other appropriate periods, rather than for a continuous one-year period; provided, that the separate periods of leave of absence shall be commenced and completed within a three-year period. Any period of service by the individual intervening between the authorized separate periods shall comprise a part of the service required for a subsequent leave of absence for study or retraining purposes.

In school districts operating under the merit system, such leaves of absence shall be granted in accordance with rules established by the personnel commission.

45382. No leave of absence shall be granted under this article to any employee for study purposes who has not rendered service to the district for at least seven consecutive years, or for retraining purposes who has not rendered service to the district for at least three consecutive years preceding the granting of the leave, and no more than one such leave of absence shall be granted in each seven- or three-year period, respectively. The governing board, or personnel commission in merit system districts, may prescribe standards of service which shall entitle the employee to the leave of absence.

Any leave of absence granted under this article shall not be deemed a break in service for any purpose, except that such leave shall not be included as service in computing service for the granting of any subsequent leave under this article.

45383. Every employee granted a leave of absence pursuant to this article may be required to perform such services during the leave as the governing board of the district and the employee may agree upon in writing. The employee shall receive such compensation during the period of the leave as the governing board and the employee may agree upon in writing, which compensation shall be not less than the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. However, in lieu of such difference, the board may pay one-half of the salary of the employee on leave or any additional amount up to and including the full salary of the employee on leave.

45384. Compensation granted by the governing board to the employee on leave may be paid in two equal annual installments

during the first two years of service rendered in the employ of the governing board following the return of the employee from the leave of absence. The compensation shall be paid the employee while on the leave of absence in the same manner as if the employee were working for the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the employee fails to render at least two years' service in the employ of the governing board following the return of the employee from the leave of absence. The bond shall be exonerated in the event the failure of the employee to return and render two years' service is caused by the death or physical or mental disability of the employee. If the governing board finds, and by resolution declares, that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render at least two years' service therein following his return from the leave, the governing board in its discretion may waive the furnishing of the bond and pay the employee on leave in the same manner as though a bond is furnished.

45385. Where one governing board serves as the governing board of two or more separate districts, an employee may fulfill the service requirements provided in Sections 45382 or 45384, or both, by service in any one or more of the districts under the jurisdiction of such governing board.

45386. This article shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter or other applicable provisions of this code that may hereafter be enacted.

45387. The governing board of any school district may grant reimbursement of the costs, including tuition fees, to any permanent classified employee who satisfactorily completes approved training to improve his job knowledge, ability, or skill. Programs eligible for such reimbursement shall include, but not be limited to, courses of study at approved academic institutions, seminars and training institutes conducted by recognized professional associations, and conferences, meetings and such other training programs as are designed to upgrade the classified service and to encourage retraining of employees who may otherwise be subject to layoff as the result of technological changes. Eligibility for reimbursement shall be in accordance with rules established by the personnel commission in those districts which have adopted a merit system. Provisions of this section shall not apply to any employee who is receiving training and is eligible for reimbursement by any other governmental agency, organization, or association.

#### Article 10. Bilingual Office Employees

45400. The Legislature hereby finds that when a public school that provides instruction in kindergarten or any of grades 1 through 12 has a substantial number of pupils who, together with their

parents or guardians, speak a single primary language other than English, and does not have in its employ one or more bilingual employees fluent in both English and the primary language of such pupils and their parents or guardians, a serious educational disadvantage results for the pupils. Effective communication between the school authorities and both the affected pupils and their parents and guardians is absolutely essential to an effective educational program. It is, therefore, the intent of the Legislature in enacting this article to remove some of the barriers that face pupils who, together with their parents or guardians, speak a single primary language other than English, and to provide them, through more effective communication, with the most beneficial education possible from the public elementary schools, junior high schools, and high schools of this state.

45401. When at least 15 percent of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 through 12 speak a single primary language other than English, the governing board of the school district in which such school is located shall hire a bilingual person for the administrative office of each such school, as soon as a position is available as provided by Section 45403, to serve as a bilingual community liaison person or a paraprofessional, clerical, or other qualified employee of each such school, in accordance with the provisions of Chapter 5 (commencing with Section 45100) of this part, who is fluent in both English and in the primary language spoken by such pupils and their parents or guardians.

45402. The bilingual person employed pursuant to this article shall have as a principal function the communication with parents or guardians of such students in the primary language of the parents or guardians.

The governing board of the school district may make additional, reasonable assignments of duties for such bilingual employees.

45403. This article shall not be construed as requiring school districts to replace existing classified personnel or to employ additional classified personnel. However, in any case in which additional classified positions are added to the administrative staff of a school which does not already employ a person as described in Section 45401, or if a vacancy is to be filled in a classified position in the administrative staff of such a school, the provisions of Section 45401 shall be adhered to in filling such position.

## DIVISION 4. INSTRUCTION AND SERVICES

PART 26. ATTENDANCE FOR COMPUTING  
APPORTIONMENTS

## CHAPTER 1. GENERAL PROVISIONS

## Article 1. Records

46000. Attendance in all schools and classes shall be recorded and kept according to regulations prescribed by the State Board of Education, subject to the provisions of this chapter.

## Article 2. Absences

46010. (a) The total days of attendance of a pupil upon the schools and classes maintained by a school district, or schools or classes maintained by the county superintendent of schools during the fiscal year shall be the number of days school was actually taught for not less than the minimum schooldays during the fiscal year less the sum of his absences.

(b) The absence of a pupil from school or class shall not be deemed an absence in computing the attendance of a pupil if such absence was:

- (1) Due to his illness, or
- (2) Due to quarantine under the direction of a county or city health officer, or
- (3) For the purpose of having medical, dental, or optometrical services rendered, or
- (4) For the purpose of attending the funeral services of a member of his immediate family, so long as such absence is not more than one day if the service is conducted in California and not more than three days if the service is conducted outside California, or
- (5) For the purpose of jury duty in the manner provided for by law.

“Immediate family,” as used in this subdivision, has the same meaning as that set forth in the last sentence of Section 45194 except that references therein to “employee” shall be deemed to be references to “pupil.”

The provisions of this subdivision shall not apply in the case of pupils attending summer school, adult schools, and classes, or regional occupational centers and programs other than pupils concurrently enrolled in a regular high school program and a regional occupational center or program.

46011. Absences due to illness or quarantine shall be verified by the district or the county superintendent of schools in such manner as the Superintendent of Public Instruction may provide.

46012. For purposes of any procedure for verification of absences from school, a student 18 years of age or over, with respect to his own

absences from school, shall have all of the responsibilities and powers which, in the case of a minor, would be charged to the parent, guardian, or other person having charge or control of the minor.

46014. Pupils, with the written consent of their parents or guardians, may be excused from school in order to participate in religious exercises or to receive moral and religious instruction at their respective places of worship or at other suitable place or places away from school property designated by the religious group, church, or denomination, which shall be in addition and supplementary to the instruction in manners and morals required elsewhere in this code. Such absence shall not be deemed absence in computing average daily attendance, if all of the following conditions are complied with:

(a) The governing board of the district of attendance, in its discretion, shall first adopt a resolution permitting pupils to be absent from school for such exercises or instruction.

(b) The governing board shall adopt regulations governing the attendance of pupils at such exercises or instruction and the reporting thereof.

(c) Each pupil so excused shall attend school at least the minimum school day for his grade for elementary schools, and as provided by the relevant provisions of the rules and regulations of the State Board of Education for secondary schools.

(d) No pupil shall be excused from school for such purpose on more than four days per school month.

It is hereby declared to be the intent of the Legislature that this section shall be permissive only.

## CHAPTER 2. ATTENDANCE—MAXIMUM CREDIT—MINIMUM DAY

### Article 1. Generally

46100. The governing board of each school district shall, subject to the provisions of this chapter, fix the length of the schoolday for the several grades and classes of the schools maintained by the district.

### Article 2. Kindergarten and Elementary Schools

46110. No pupil in a kindergarten or in any grade of an elementary school shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.

46111. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.

46112. The minimum schoolday in grades 1, 2, and 3 in elementary schools, except in opportunity schools, classes, or programs, is 230 minutes, except where the governing board of a school district has prescribed a shorter length for the schoolday

because of lack of school facilities which requires double sessions, in which case the minimum schoolday in such grades shall be 200 minutes.

46113. The minimum schoolday in grades 4, 5, 6, 7, and 8 in elementary schools and in special day and evening classes of an elementary school district, except in opportunity schools, classes, or programs, is 240 minutes.

46114. (a) The minimum schoolday in grades 1, 2, and 3 in elementary schools may be computed by determining the number of minutes of attendance in any 10 consecutive schooldays and dividing that number by 10. If the resulting quotient is 230 or more, the pupils shall be deemed to have complied with Section 46112, even if the number of minutes attended in any one schoolday is less than 230, but not less than 170.

(b) The minimum schoolday in grades 4, 5, 6, 7, and 8 in elementary schools may be computed by determining the number of minutes of attendance in any 10 consecutive schooldays and dividing that number by 10. If the resulting quotient is 240 or more, the pupils shall be deemed to have complied with Section 46113, even if the number of minutes attended in any one schoolday is less than 240, but not less than 180.

No computation authorized by this section shall result in any increase in state apportionments.

46115. The minimum schoolday in kindergartens and in grades 1 to 8, inclusive, in elementary schools, is exclusive of noon intermissions and, except in kindergartens, exclusive of recesses.

46116. With respect to educationally handicapped pupils provided instruction pursuant to Chapter 4 (commencing with Section 56600) of Part 30 of this division, the minimum schoolday in kindergarten is 180 minutes; in grades 1, 2, and 3 in elementary schools is 200 minutes; and in grades 4, 5, 6, 7, and 8 in elementary schools is 240 minutes.

46117. The minimum schoolday for pupils in kindergartens is 180 minutes inclusive of recesses, and no units of average daily attendance shall be credited for attendance in kindergarten classes if the minimum schoolday of such classes is less than 180 minutes.

46118. A single-session kindergarten class shall meet all of the following criteria:

(a) The class is maintained for a minimum of 180 minutes per schoolday.

(b) The kindergarten class teacher is assigned to only one session of kindergarten daily as a principal teacher.

(c) The kindergarten teacher is a full-time certificated employee.

(d) The full-time duties of the kindergarten teacher are directly related to the kindergarten program.

46119. The governing board of a school district which has fewer than 40 pupils enrolled in kindergarten classes may make application to the Superintendent of Public Instruction requesting approval to maintain two kindergarten classes of 150 minutes each inclusive of

recesses on the same day which are taught by the same teacher. The average daily attendance for such classes shall be adjusted by a multiplication factor of 0.500.

### Article 3. Junior High School and High School

46140. No pupil in a high school, other than a pupil in a vocational education program occupationally organized and conducted under federal approval, evening high school, continuation high school, or continuation education class, shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.

46141. The minimum schoolday in any high school, except in an evening high school, a regional occupational center, an opportunity school and in opportunity classes, a continuation high school, in continuation education classes, in late afternoon or Saturday occupationally organized vocational training programs conducted under a federally approved plan for vocational education, and for students enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of this division, is 240 minutes.

46142. The minimum schoolday in any junior high school or high school described in Section 46141 may be computed by determining the number of minutes of attendance in any 10 consecutive schooldays and dividing that number by 10. If the resulting quotient is 240 or more, the pupils shall be deemed to have complied with Section 46141, even if the number of minutes attended in any one schoolday is less than 240, but not less than 180.

No computation authorized by this section shall result in any increase in state apportionments.

46143. With respect to educationally handicapped pupils provided instruction pursuant to Chapter 4 (commencing with Section 56600) of Part 30 of this division, the minimum schoolday in any high school is 240 minutes.

46144. The minimum day in special day or Saturday vocational training programs and for students enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of this division is 180 minutes.

46145. Notwithstanding Section 46141, the governing board of a school district may permit a 12th-grade student in his last semester or quarter, as the case may be, before graduation, who would complete all of the requirements for graduation by attending high school, except courses of physical education, for less than 240 minutes each day, to attend high school for less than a minimum day of 240 minutes, upon the written request of a parent or legal guardian or upon his own written request if he is 18 years of age or over. Attendance pursuant to this section shall, for apportionment purposes and for school district revenue limitation purposes, be

deemed to be attendance for a minimum day of 240 minutes.

46146. A day of attendance in grades 11 and 12 is 180 minutes of attendance.

46147. Notwithstanding Section 46144, the governing board of any school district may permit a 12th-grade student in his last semester or quarter, as the case may be, before graduation, who is enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 (commencing with Section 51000) of this division and who would complete all of the requirements for graduation by attending high school, except courses of physical education, for less than 180 minutes each day, to attend high school for less than a minimum day of 180 minutes, upon the written request of a parent or legal guardian or upon his own request if he is 18 years of age or over. Attendance pursuant to this section shall, for apportionment purposes, be deemed to be attendance for a minimum day of 180 minutes.

#### Article 4. Alternative Schedule—Junior High and High School

46160. Notwithstanding any other provision of law, the governing board of a school district which maintains a junior high school or high school may schedule classes in such schools so that each pupil attends classes for at least 1,200 minutes during any five-school day period.

Under such a schedule, any pupil may be authorized to attend school for less than the total number of days in which the school is in session during a week as long as he attends the required number of minutes per five-school day period.

Computations authorized by this section shall not result in an increase in state apportionments to a school district.

46161. If a pupil attends classes pursuant to a schedule adopted under the authority of this chapter, he shall be deemed to have complied with all of the requirements of this code relating to school attendance.

46162. Prior to implementing a program under the provisions of this chapter in any school of the district, the school district governing board shall consult in good faith in an effort to reach agreement with the certificated and classified employees of the school, with the parents of pupils who would be affected by the change, and with the community at large. Such consultation shall include at least one public hearing for which the board has given adequate notice to the employees and to the parents of pupils affected.

#### Article 5. Minimum Day—Continuation Schools

46170. In continuation high schools and continuation education classes, a day of attendance is 180 minutes of attendance but no pupil in any such school or class shall be credited with more than 15 hours of attendance in any calendar week.

### Article 6. Opportunity Schools

46180. The minimum day in an opportunity school or opportunity class is 180 minutes. A pupil may be enrolled in an opportunity program for not less than a class period of the school, nor more than 179 minutes per day. Attendance for a pupil enrolled in an opportunity program shall be credited to the regular class attendance.

A pupil who is enrolled in both an opportunity program and a regular school, shall attend school for a period of time not less than the minimum schoolday required for the grade level in which he is enrolled.

### Article 7. Adult School

46190. In classes for adults, a day of attendance is 180 minutes of attendance but no student shall be credited with more than 15 clock hours of attendance during any one school week unless he is enrolled in a class in elementary subjects, a class for which high school credit is given, a class in English for foreigners, a class in citizenship, or a class in a trade or industrial subject as trade or industrial subject is defined by the State Board of Education for grades 7 to 12, inclusive.

46191. In classes for adults maintained for adults in any county jail, or any county industrial farm or county or joint county road camp, a day of attendance is 180 minutes of attendance; but no pupil in such a class shall be credited with more than one day of attendance in any calendar day, nor with more than 15 clock hours of attendance during any one school week.

46192. Each clock hour of teaching time devoted to the individual instruction of physically handicapped adults who are patients in a tuberculosis ward or hospital maintained by one or more counties shall count as one day of attendance but no such adult shall be credited with more than one day of attendance in any calendar day.

## CHAPTER 3. AVERAGE DAILY ATTENDANCE

### Article 1. General Provisions

46300. (a) In computing the average daily attendance of a school district, there shall be included only the attendance of pupils while engaged in educational activities required of such pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him to render service in the capacity and during the period in which he served. For the purposes of computing the average daily attendance of high school students in a school district, attendance shall also include pupil attendance and participation in an independent study program under the coordination, evaluation, and general, but not immediate, supervision of an employee of the

district who possessed a valid certification document. The nature, manner, and place of conducting any independent study program shall be determined by the school district pursuant to rules and regulations adopted by the State Board of Education and shall be an integral part of any decision pursuant to Section 48907.5 to suspend the expulsion action of the board. The school district shall ensure that the components of each individual study program for each individual pupil shall be set out in writing. A pupil enrolled in an independent study program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 46141.

(b) For the purpose of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator. A pupil enrolled in such work experience program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 46141 or 46144.

(c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48907.5, "immediate supervision" in such schools, classes or programs means pupil participation in such programs wherein the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district. Such programs shall be approved by the Department of Education and certified by the county superintendent of schools.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance in any calendar day.

46301. Whenever it is necessary to compute the average daily attendance of a school of a district for any certain purpose and no provision is made for the computation thereof for such purpose, the average daily attendance of the school shall be computed by dividing the total number of days of pupil attendance allowed by the number of days school was actually taught in the regular day schools of the district, exclusive of Saturdays or Sundays.

46302. Where in a high school or elementary school four terms of school of at least 12 weeks each are maintained during a fiscal year, and where the course of instruction is so arranged that students may complete a full year's work in any three terms, the total number of

days of pupils attendance shall be divided by the greatest number of days school was actually taught in any three of the four terms, but in no case shall the divisor be less than 175.

46303. (a) If any computation of average daily attendance made under, or necessitated by, any provision of law, results in a fraction of less than one-half of a unit, the average daily attendance shall be taken as the next lowest whole number, except that if such computation results in an average daily attendance of less than one unit, the average daily attendance shall be deemed to be one unit; but if the fraction is one-half or more of a unit, the average daily attendance shall be taken as the next highest whole number.

(b) Whenever any reference is made to a specific whole number of units of average daily attendance said number shall include any fraction above said number which is less than one-half of a unit, and any fraction of one-half or more of a unit above the next lowest whole number.

46304. Notwithstanding anything in this code to the contrary when as a result of the unification or other reorganization of school districts, or the change of school district boundaries, and if the Superintendent of Public Instruction determines that a school district in which pupils reside does not have suitable quarters in which to maintain school for all the day pupils of the district, or that for other good and sufficient reasons the education of pupils in the district in which they reside is not practical or in the best interests of such pupils, the governing board of the district of residence shall contract with the governing board of another school district for the education of those pupils for whom suitable quarters are not available, or who should be educated in another district, as determined by the Superintendent of Public Instruction. No contract for the education of pupils under this paragraph shall be authorized subsequent to the close of the third fiscal year following that in which the district of residence is formed or reorganized, or the boundaries of the district changed, for all purposes.

Such contract shall provide for the payment of tuition in such amount and in the manner as may be agreed upon by the governing board of the district of attendance and the governing board of the district of residence. The tuition agreed upon shall not be an amount in excess of the actual cost to the district of attendance for the education of such pupils, less federal funds apportioned or allocated to the district of attendance on account of such pupils, and shall be payable during the current school year of attendance.

Any contract for the education of pupils residing in a school district made by the governing board of the district in accordance with the provisions of this section shall be deemed for all purposes to be or have been the maintenance of a school within the boundaries of the district. The average daily attendance of all pupils attending school in a district other than the district in which they reside, pursuant to such contract, shall be credited to the district of residence for apportionment purposes.

The provisions of this section shall apply to any contract made by governing boards of school districts pursuant to this section during the fiscal year 1953-54, and thereafter, and attendance of pupils under such a contract shall be credited in the manner prescribed by this section.

46305. Each elementary, high school, and unified school district shall report to the Superintendent of Public Instruction on forms prepared by the Department of Education in addition to all other attendance data as required, the active enrollment as of the third Wednesday of each school month and the actual attendance on the third Wednesday of each school month; except that if such day is a school holiday, the active enrollment and actual attendance of the first immediate preceding schoolday shall be reported. "Active enrollment" on a day a count is taken means the pupils in enrollment in the regular schooldays of the district on the first day of the school year on which the schools were in session, plus all later enrollees, minus all withdrawals since that day.

46306. Notwithstanding any other provision of law, the average daily attendance of pupils enrolled in summer schools shall be credited to the school district in the fiscal year in which the last day of the summer school falls.

## Article 2. Kindergartens and Elementary Schools

46320. The units of average daily attendance in the elementary schools of a district for a fiscal year shall be computed by dividing the total number of days of pupils attendance in all kindergarten and elementary schools and classes of the district during the fiscal year by the number of days school was actually taught in the regular day elementary schools of the district during the fiscal year, plus the units of average daily attendance credited to the district on account of the education of seventh and eighth grade pupils in a junior high school pursuant to Section 46333.

For the purposes of this article, a day of attendance in special training schools or classes defined by Section 56515 is based on a 180-minute minimum day. When the minimum day is less than 180 minutes, the average daily attendance shall be adjusted by a multiplication factor of 0.417.

## Article 3. High Schools

46330. The average daily attendance in the high schools of a district other than evening high schools, continuation high schools, and continuation education classes, for a fiscal year are the quotient arising from dividing the total number of days of pupils' attendance allowed in the regular day high schools, summer schools, special high school classes, and the part-time vocational courses of the district, exclusive of the number of days of pupils' attendance in the seventh and eighth grades of junior high schools, during the fiscal year by the

number of days school was actually taught in the regular day schools of the district during the fiscal year, exclusive of Saturdays or Sundays.

46331. The units of average daily attendance in the evening high schools, continuation high schools, and continuation education classes of a district for a fiscal year are the quotient arising from dividing the total number of days of pupils' attendance in such high schools and classes by 175.

46332. The total units of average daily attendance in the high schools of a district shall be total units of average daily attendance computed under Sections 46330 and 46331.

46333. The units of average daily attendance for a fiscal year of pupils residing in any elementary school district and attending the seventh and eighth grades of a junior high school shall be determined separately and shall be computed by dividing the total number of days of pupils' attendance in said grades by the number of days school was actually taught during the fiscal year in the regular day high schools of the district maintaining the junior high school. The average daily attendance so computed shall be credited to the elementary school district in which the pupils reside.

#### Article 4. Opportunity Schools

46340. Units of average daily attendance in the opportunity schools or classes for a fiscal year are the quotient arising from dividing the total number of days of pupils' attendance in such schools or classes during the fiscal year by 175.

#### Article 5. Adult Classes

46350. The units of average daily attendance in classes for adults for a fiscal year maintained by a school district shall be computed by dividing the total days of pupils' attendance in such classes during the fiscal year by 175.

46351. Whenever two or more school districts have entered into an interdistrict attendance agreement whereby one of the districts shall provide for the adult education classes for all districts included in the agreement, the average daily attendance of adults attending such classes shall, for apportionment purposes, be reported by and credited to the district in which such adult resides. This section shall only apply to those cases in which the school district providing adult education is a unified school district situated in a county of the sixth class and having, for the 1969-1970 school year, a high school average daily attendance of 9,600 or more.

#### Article 6. County School Service Fund

46360. The average daily attendance of physically handicapped elementary pupils given instruction by a county superintendent of

schools and whose attendance is credited to the county school service fund, shall be computed by dividing the total days of attendance of such pupils during the fiscal year by 175.

46361. The average daily attendance of physically handicapped pupils of secondary grade given instruction by a county superintendent of schools and whose attendance is credited to the county school service fund, shall be computed by dividing the total days of attendance of such pupils during the fiscal year by 175.

46362. The average daily attendance of mentally retarded pupils given instruction by a county superintendent of schools shall be computed by dividing the total days of attendance of such pupils during the fiscal year by 175 and the average daily attendance so computed shall be credited to the county school service fund; provided, however, that the average daily attendance of mentally retarded pupils coming within the provisions of Section 56515 for the purpose of computation of transportation allowances under Section 41863, subdivision (b), shall be computed by dividing the total number of days of attendance of such pupils during the fiscal year, including the days of attendance at an authorized summer session, by 175.

46363. Mentally retarded pupils who come within the provisions of Section 56501 and who are enrolled in a work-study program approved by the Department of Education shall be credited, for apportionment purposes, one full day of attendance for each day of attendance in the approved program. The average daily attendance of mentally retarded pupils enrolled in approved programs shall be computed by dividing the total number of days of attendance of the pupils by the number of days taught in the regular schools of the district. No such pupils shall be credited with more than five days of attendance per calendar week or more than the number of calendar days such special school or class is maintained by the district in each fiscal year.

46364. The average daily attendance of pupils attending an elementary school or secondary school maintained by a county superintendent of schools for the education of persons in a juvenile hall or in a juvenile home or camp, shall be computed by dividing the total days of pupils attendance in the school during the fiscal year by 175 and the average daily attendance so computed shall be credited to the county school service fund.

46365. The average daily attendance of educationally handicapped elementary pupils given instruction by a county superintendent of schools and whose attendance is credited to the county school service fund, shall be computed by dividing the total days of attendance of such pupils during the fiscal year by 175.

46366. The average daily attendance of educationally handicapped pupils of secondary grade given instruction by a county superintendent of schools and whose attendance is credited to the county school service fund, shall be computed by dividing the total days of attendance of such pupils during the fiscal year by 175.

46367. Computation of average daily attendance shall not include minors between the ages of 18 months and three years who are:

(a) Physically handicapped minors who receive instruction pursuant to Section 56713.

(b) Minors with speech disorders or defects who receive instruction pursuant to Section 56716.

(c) Minors who are deaf or hard of hearing who receive instruction pursuant to Section 56716.

#### Article 7. County School Tuition Fund

46380. The average daily attendance for the fiscal year of pupils residing in any county of this state and attending a school in an adjoining state under Article 5 (commencing with Section 1330) of Chapter 2, Article 1 (commencing with Section 1600) of Chapter 5, Article 1 (commencing with Section 2000) of Chapter 7, Chapter 8 (commencing with Section 2100), Chapter 10 (commencing with Section 2300), of Part 2 of Division 1 of Title 1, shall be computed by dividing the total number of days of attendance of such pupils in the school by the number of days the school was maintained during said fiscal year, but by not less than 175, and the average daily attendance so computed shall be credited to the county school tuition fund.

#### Article 8. Emergency Average Daily Attendance

46390. Where a school in a district maintaining more than one school is closed for a part of a term by order of a city or county board of health or of the State Board of Health, or because of fire, flood, impassable roads, epidemic, or other emergency, or by an order provided for in Section 41422, the average daily attendance of the school shall be estimated separately, as provided in Section 46392, and added to the average daily attendance of the other schools of the district.

46391. Whenever any attendance records of any district have been lost or destroyed, making it impossible for an accurate report on average daily attendance for the district for any fiscal year to be rendered, which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the governing board of the district and the county superintendent of schools, the Superintendent of Public Instruction shall estimate the average daily attendance of such district. The estimated average daily attendance shall be deemed to be the actual average daily attendance for that fiscal year for the making of apportionments to the school district from the State School Fund.

46392. Whenever the average daily attendance of any school district during any fiscal year has been materially decreased during any fiscal year because of:

- (a) Fire,
- (b) Flood,

- (c) Impassable roads,
- (d) An epidemic,
- (e) The imminence of a major safety hazard as determined by the local law enforcement agency,
- (f) A strike involving transportation services to pupils provided by a nonschool entity, or
- (g) An order provided for in Section 41422,

such fact shall be established to the satisfaction of the Superintendent of Public Instruction by affidavits of the members of the governing board of the school district and the county superintendent of schools. The average daily attendance of the district for the fiscal year shall be estimated by the Superintendent of Public Instruction in such manner as to credit to the school district for determining the apportionments to be made to the district from the State School Fund approximately the total average daily attendance which would have been credited to the school district had the emergency not occurred or had the order not been issued.

The provisions of this section shall apply to any average daily attendance which occurs during any part of a school year.

#### CHAPTER 4. HANDICAPPED PUPILS—ATTENDANCE REQUIREMENTS

##### Article 1. Physically Handicapped Pupils

**46500.** Attendance of physically handicapped pupils in a graded special class for the same number of minutes as constitute a day of attendance in the same grade of regular classes shall constitute a day of attendance, except for such minors 16 years of age and over who are enrolled in an approved occupational training program or work experience education program. Each clock hour of teaching time devoted to individual instruction of physically handicapped pupils shall count as one day of attendance. Whenever one to four physically handicapped pupils are instructed at the same time by the same teacher in a remedial class conducted by a school district or the county superintendent of schools, the total attendance credited for such pupils shall equal one unit of attendance for each 60 minutes of instruction. The average daily attendance of all physically handicapped pupils shall be computed by dividing the total number of days of attendance of the pupils by the number of days taught in the regular schools of the district.

Notwithstanding any provision of this code to the contrary, however, when a physically handicapped minor 16 years of age or over is enrolled in an approved occupational training program pursuant to Sections 56070 and 56071, two clock hours of attendance in a special day school or class in combination with two clock hours of attendance in such an occupational training program shall count as one day of attendance.

Notwithstanding any provision of this code to the contrary,

however, when a physically handicapped minor 16 years of age or over is enrolled in an approved off-campus work experience education or work study program, one day of attendance may consist of either: (a) two class hours of attendance in a special or regular day class and two clock hours of attendance in such a program; or, (b) three class hours of attendance in a special or regular day class and one clock hour of attendance in such a program.

No such pupil shall be credited with more than five days of attendance per calendar week or more than the number of calendar days such special day school or class is maintained in such fiscal year.

46501. With respect to physically handicapped pupils given instruction at home or in a hospital or in the case of minors with speech disorders or defects who may be admitted at the age of three years for individual or small group instruction of four pupils or less at the school, each clock hour of teaching time devoted to the instruction of such pupils shall count as one day of attendance. No provision of this chapter limiting the number of days of attendance with which a pupil may be credited in any one calendar day is applicable to such pupils but no such pupil shall be given individual instruction for more than three hours in any one day or credited with more days of attendance for individual instruction during any fiscal year than the number of legal calendar days school may be maintained during such fiscal year.

46502. The attendance of all physically handicapped pupils given instruction by a school district, including those instructed under cooperative arrangements with the Bureau of Vocational Rehabilitation of the State Department of Education, shall be reported annually to the county superintendent of schools together with all other attendance on forms provided by the Superintendent of Public Instruction.

## Article 2. Educationally Handicapped Pupils

46510. Attendance of educationally handicapped pupils, as identified pursuant to Chapter 4 (commencing with Section 56600) of Part 30 of this division, enrolled in a special day class, who attend school for the same number of minutes as constitute a minimum schoolday prescribed in Sections 46116 and 46143, shall constitute a day of attendance. Each clock hour of teaching time devoted to individual instruction of educationally handicapped pupils shall count as one day of attendance. The average daily attendance of all educationally handicapped pupils shall be computed by dividing the total number of days of attendance of the pupils by the number of days taught in the regular schools of the district.

46511. With respect to educationally handicapped pupils given instruction at home, in a hospital, or in a regularly established nonprofit, tax-exempt, licensed children's institution, each clock hour of teaching time devoted to the individual instruction of such pupils shall count as one day of attendance. No provision of this

chapter limiting the number of days of attendance with which a pupil may be credited in any one calendar day is applicable to such pupils, but no such pupil shall be given individual instruction for more than three hours in any one day or credited with more days of attendance for individual instruction during any fiscal year than the number of legal calendar days school may be maintained during such fiscal year.

46512. The attendance of all educationally handicapped pupils given instruction by a school district shall be reported annually to the county superintendent of schools together with all other attendance on forms provided by the Superintendent of Public Instruction.

46513. The attendance of educationally handicapped pupils instructed by the county superintendent of schools pursuant to Section 56602 shall be credited as follows:

(a) The attendance of elementary pupils taught in special classes maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency elementary school for special class instruction of such pupils. The attendance of pupils of secondary grade in special classes maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency secondary school for special class instruction for such pupils.

(b) The attendance of elementary pupils in learning disability groups maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency elementary school for learning disability group instruction of educationally handicapped pupils. The attendance of pupils of secondary grade in learning disability groups maintained for educationally handicapped pupils shall be credited to the county school service fund as attendance upon a single emergency secondary school for learning disability group instruction of educationally handicapped pupils.

(c) The attendance of elementary pupils given instruction in the home, hospital, or a regularly established licensed children's institution shall be credited to the county school service fund as attendance upon a single emergency elementary school for home, hospital, or a regularly established licensed children's institution instruction of educationally handicapped pupils. The attendance of pupils of secondary grade given instruction in the home, hospital, or a regularly established licensed children's institution shall be credited to the county school service fund as attendance upon a single emergency secondary school for home, hospital, or a regularly established licensed children's institution instruction of educationally handicapped pupils.

## CHAPTER 5. INTERDISTRICT ATTENDANCE COMPUTATION

46600. The governing board of any school district may admit to the schools or classes maintained in the district any pupil who lives in another school district which maintains schools or classes of the grade levels which the pupil desires to attend. An agreement providing for such attendance shall be entered into between the governing board and the governing board of the district in which the pupil lives. The agreement shall stipulate the terms upon which the interdistrict attendance shall be permitted. The terms of the agreement shall require the payment to be determined in the manner provided by Section 46605.

46601. Effective July 1, 1973, the average daily attendance resulting from an interdistrict attendance agreement shall be credited to the district in which the pupil lives for purposes of determining a revenue limit except as otherwise allowed in Sections 46616 and 46617. In computing the 1972-73 base revenue pursuant to Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 3 of this title, all amounts received in fiscal year 1972-73 by the school district of attendance pursuant to an interdistrict attendance agreement executed pursuant to Section 46600 may be included.

46602. An interdistrict attendance agreement shall be for a term of not to exceed five consecutive school years.

46603. If the governing board of either district neglects or refuses to enter into such an agreement within 30 days after the person having custody of any pupil has requested the board so to do:

(a) The person may appeal to the county board of education having jurisdiction over the district in which the pupil lives.

(b) The county board of education shall, within 30 days after filing of the appeal, determine whether the pupil should be permitted to attend in the district in which he desires to attend and for what period of time.

(c) If the county board of education determines that the pupil should be permitted to attend in the district in which he desires to attend, the county board of education shall determine what the tuition payment shall be. Such payment shall not exceed that allowed in Section 46605.

46604. If the county board of education determines that the pupil should be permitted to attend in the district in which he desires to attend, the pupil shall be admitted to school in the district without delay.

46605. If attendance in a district is pursuant to an interdistrict attendance agreement, or if the county board of education determines that the pupil should be permitted to attend in the district in which he desires to attend, the governing board of the district in which the pupil lives shall pay a tuition to the district of attendance no later than the next August 31, after the close of the fiscal year as follows:

(a) For attendance in regular day schools, summer schools, and adult schools and classes, the tuition per average daily attendance, if any, shall not exceed the actual cost per unit of average daily attendance for the grade level or program less any income, other than tuition, received by the district of attendance on account of such attendance.

(b) For attendance in programs for the physically handicapped as defined in Section 56700, the mentally retarded as defined in Section 56501 or 56515, the educationally handicapped as defined in Section 56600, or the mentally gifted as defined in Section 52200, the tuition per unit of average daily attendance shall be no greater than the expenditures per unit of average daily attendance as authorized by statute for that special program less any state and federal allowance per unit of average daily attendance for the program but no less than the appropriate unit foundation program pursuant to Section 41704 or 41711, as modified by subdivision (e) of Section 14002.

(c) For attendance in any other school or class not mentioned in subdivision (a) or (b) and for which an interdistrict attendance agreement pursuant to this article has been executed, the tuition, if any, shall be no greater than the actual cost per unit of average daily attendance for the grade level or program less any income, other than tuition, received by the district of attendance on account of such attendance.

(d) The district in which the pupil lives shall reduce its total revenue limit pursuant to Section 42233 or 42238 by the total excess, if any, of its revenue limit per average daily attendance multiplied by the total interdistrict attendance over the total tuition to be paid to districts of attendance.

The district in which the pupil lives may increase its total revenue limit pursuant to Section 42233 or 42238 by the total excess, if any, of the total tuition to be paid to district of attendance over the district of residence's revenue limit per average daily attendance multiplied by the total interdistrict average daily attendance.

46606. Attendance credited to a school district pursuant to Section 46351 shall not be included in the computation of the reduction of the revenue limit of the district prescribed by the first paragraph of subdivision (d) of Section 46605.

46607. A pupil may be admitted provisionally to the schools of a district, other than that in which he lives, by the governing board of the district for a period of not exceeding two school months, pending decision by the governing boards of the school districts concerned, or by the county board of education relative to his admittance.

If the interdistrict attendance is allowed, the average daily attendance may be counted for revenue limit and state apportionment purposes by the appropriate district pursuant to Sections 46601 and 46614.

If the interdistrict attendance is not allowed, the average daily attendance earned within the two school months period allowed by this section, shall be credited to the district of attendance for

purposes of state apportionments and revenue limit calculation.

46608. The provisions of Sections 46600 to 46607, inclusive, do not apply to the attendance of pupils in the seventh and eighth grades of a junior high school which is maintained by a high school district.

46609. Where the county boards of education of the two counties concerned agree that it is for the best educational and health interest of the child, a school district located in one county shall admit to the schools or classes maintained by it any pupil who resides in a school district located in another county.

46610. Whenever three-fourths of the electors residing in an elementary school district and having children attending in the schools of the district petition the governing board of the district so to do, the governing board of such district with the approval of all the members of the county board of education may provide for the education of all elementary school pupils in the district by another elementary or unified school district subject to such terms and conditions as the governing boards of the two districts may agree upon. The attendance of the pupils shall be credited to the district in which the pupil lives for revenue limit and state apportionment purposes. On the next succeeding July 1st, the district in which the pupil lives shall be subject to the provisions of Sections 35720 to 35724, inclusive.

46611. The governing board of a school district maintaining one or more elementary schools may admit to the kindergartens maintained by the district children eligible for admission to kindergarten classes who live in another district whenever an agreement is entered into between the governing board of each of such districts stipulating the terms upon which the interdistrict attendance shall be permitted.

46612. If the governing board of a school district in which pupils reside who are lawfully attending in another district fails or refuses to pay, when due, the amount required to be paid the district of attendance for the education of such pupils under any provision of this code, the county superintendent of schools having jurisdiction over the district of residence shall draw a requisition against the funds of the district of residence in favor of the district of attendance in payment of such amount and transmit the requisition to the governing board of the district of attendance.

46613. The governing board of any school district may admit to the schools or classes maintained in the district any pupils who reside in another school district during any of the first three fiscal years of existence for all purposes of the district of residence, whenever an agreement is entered into between the governing boards stipulating the terms upon which the interdistrict attendance shall be permitted.

46614. Except as may otherwise be specially provided, the average daily attendance of all pupils who live in one school district and attend school in another school district shall be credited to the district in which the pupil lives for foundation program apportionment purposes.

The district of attendance shall record and report separately for foundation program purposes the attendance of pupils who live in another school district. When such average daily attendance is credited to a district in which the pupil lives the average daily attendance so credited shall be used to determine additional district foundation program based on the appropriate unit foundation program and such average daily attendance shall not be added to the average daily attendance used in determining any necessary small school allowance for the district in which the pupil lives.

46615. For the purposes of apportionment pursuant to Sections 41882 to 41888, inclusive, 41890 and 52205, the average daily attendance of those special pupils who live in one school district and attend school in another district under an interdistrict attendance agreement shall be credited to the district of attendance, and the Superintendent of Public Instruction shall pay the allowances under those sections to the district of attendance.

For the purposes of apportionment pursuant to Section 41863, the district providing the transportation shall report the average daily attendance used to determine the special transportation allowance.

46616. (a) If a district of attendance charges a tuition for attendance of pupils from another district in its schools and classes the provisions of Sections 46601 and 46614 shall apply.

(b) If a district of attendance does not charge a tuition for attendance of pupils from another district in its schools and classes, the average daily attendance for such attendance shall be credited to the district of attendance for purposes of determining state apportionments and the revenue limit pursuant to Section 42233 or 42238. In such case the district of attendance shall, prior to the budget hearing required by Section 42103, include as a part of the budget process a public hearing on the estimated costs to its taxpayers for the attendance of pupils from other districts. This public hearing shall include a statement concerning the estimated average daily attendance involved, the estimated cost to the district of such attendance, with such cost also expressed as an estimated tax rate equivalent. Notice of the hearing shall be posted in a public place and furnished to the news media at least five days prior to the date of the public hearing.

46617. The attendance for a physically handicapped or mentally retarded pupil residing in one district and attending in another district pursuant to a contract with the county superintendent of schools, as authorized in Sections 1850 and 1880, shall be credited to the district of attendance for purposes of state apportionment and revenue limit computations. Any tuition shall be paid by the contracting county superintendent of schools.

46617.5. A county superintendent of schools may admit to regional occupational programs or regional occupational centers operated by the county superintendent of schools, pupils who reside in school districts which are not participating in such regional

occupational programs or centers by written agreement of the school district in which the pupils reside, or if the school district maintains a regional occupational program or regional occupational center, by written agreement with such regional occupational program or regional occupational center.

Cost of attendance of pupils pursuant to such an agreement shall be reimbursed to the county superintendent of schools by the pupil's school district at the full foundation program level or the school district's revenue limit, whichever is lower. There shall be no state financial support to the county superintendent of schools for such pupils. The agreement shall provide for reimbursement to the county superintendent of schools for the excess cost of education, if any.

46618. The governing board of a unified school district, whose boundaries are coterminous with the boundaries of a county, and which is contiguous to an adjoining state, may provide for the education of all or any number of the high school pupils of the district who reside in the district by the attendance of such pupils at the schools of a school district of an adjoining state. The governing board of the unified school district may enter an agreement with the school district of an adjoining state for the education of such pupils, subject to the terms and conditions agreed upon. The provisions of Sections 2000 to 2011, inclusive, do not apply to pupils educated pursuant to an agreement authorized by this section. The average daily attendance of pupils educated pursuant to such an agreement shall be credited to the district of residence for apportionment purposes. The superintendent of schools of the district, or the principal of the school, in the adjoining state attended by the pupils under such an agreement shall, not later than July 2 of each year, certify, to the county superintendent of schools having jurisdiction over the school district of residence of the pupils, the average daily attendance of the pupils of the district attending the schools of the school district in the adjoining state. Certification shall be made on forms furnished by the Superintendent of Public Instruction. The county superintendent of schools shall report such average daily attendance to the Superintendent of Public Instruction, who shall include such average daily attendance in his report of average daily attendance in all of the duly established schools of the state for the last preceding school year certified by him to the State Controller.

## PART 27. PUPILS

### CHAPTER 1. ADMISSION

#### Article 1. Kindergartens

48000. (a) A child shall be admitted to a kindergarten in any term during the first school month of the term, if he is of the age prescribed. For good cause the governing board of a school district

may permit a child of proper age to be admitted to a class after the first school month of the school term.

If there is but one term during the school year, the child shall be 4 years and 9 months of age on or before September 1st of the current school year. If there are two terms maintained during the school year, the child shall be 4 years and 9 months of age on or before September 1st of the current school year, before he may be admitted in the first term of the school year, or 4 years and 9 months of age on or before February 1st of the current school year, before he may be admitted in the second term in any school year.

A child who will be 4 years and 9 months of age on or before September 1st, may be admitted to the prekindergarten summer program maintained by the school district for pupils who will be enrolling in kindergarten in September.

(b) The governing board of any school district maintaining one or more kindergartens may admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian. The governing board shall provide the parent or guardian with information as to the advantages and disadvantages and any other explanatory information as to the effects of this early admittance.

48001. All children living in a school district who qualify under Section 48000 shall be admitted to kindergarten.

48002. The parent or guardian of a child shall, prior to the admission of the child to the kindergarten or first grade of a school district, present proof to the authorities of the district evidencing that such child is of the minimum age fixed by law for admission thereto. Such evidence shall be in the form of a certified copy of a birth record or a statement by the local registrar or a county recorder certifying the date of birth, or a baptism certificate duly attested, or a passport, or, when none of the foregoing is obtainable, an affidavit of the parent, guardian, or custodian of the minor.

48003. Anything in Section 48002 to the contrary notwithstanding, governing boards of school districts having an average daily attendance of 60,000 or more pupils shall admit a child to the kindergarten or first grade of the school district upon presentation of such proof of age of the child as shall be prescribed by the governing board of the district.

## Article 2. Elementary Schools

48010. A child shall be admitted to the first grade of an elementary school during the first month of any school term if he is of the age prescribed in this section. For good cause, the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

If there is but one term during the school year, the child shall be five years and nine months of age on or before September 1st, of the current school year. If there are two terms maintained during the

school year, the child shall be five years and nine months of age on or before September 1st, of the current year, before he may be admitted in the first term of the school year, or five years and nine months of age on or before February 1st, of the current school year, before he may be admitted in the second term of any school year.

48011. A child who has been lawfully admitted to the kindergarten, as defined by the State of California, maintained by a private or a public school in California or any other state, and who has completed one year therein shall be admitted to the first grade of an elementary school regardless of age.

A child who has been lawfully admitted to a public school kindergarten or a private school kindergarten in California and who is judged by the administration of the school district, in accordance with rules and regulations adopted by the State Board of Education, to be ready for first-grade work may be admitted to the first grade at the discretion of the school administration of the district and with the consent of the child's parent or guardian regardless of age.

Where a child has been legally enrolled in the public schools of another district within or out of the state, he may be admitted to school and placed in the grade of enrollment in the district of former attendance, at the discretion of the school administration of the district entered.

No child shall be admitted to the first grade of an elementary school pursuant to this section unless the child is at least five years of age.

48012. The children residing in any newly formed district, in any district whose boundaries have been changed, or in any joint district, may attend the school in the district or districts from which the newly formed district was constituted, until the first day of July next succeeding the formation or change.

48013. The day elementary schools of each school district may be open for the admission of adults if the governing body of the district deems the admission advisable.

### Article 3. Junior High Schools

48020. All minors who have completed the work of the sixth grade and such other minors as are, in the judgment of the principal of the junior high school and of the superintendent having immediate jurisdiction thereof, capable of doing the required work, may be admitted to a junior high school.

### Article 4. High Schools

48030. Any graduate of the elementary schools of this state and any other person who furnishes to the principal of the high school and to the county or to the city superintendent of schools having immediate jurisdiction over the high school, satisfactory evidence of his fitness for high school work, may attend high school in the district

in which he resides under such regulations as the high school board may prescribe.

48031. Any person who is eligible to attend high school and who does not reside in a high school district or in a unified school district may attend high school in any high school district or unified school district in the county in which he resides or in another county.

#### Article 5. Adult Schools

48040. Adult schools and evening high schools shall be open for the admission of adults and of such minors as in the judgment of the governing board may be qualified for admission thereto.

#### Article 6. Nonresidents

48050. The governing board of any school district may, with the approval of the county superintendent of schools, admit to the elementary and high schools of the district pupils living in an adjoining state which is contiguous to the school district. An agreement shall be entered into between the governing board and the governing board or authority of the school district in which the pupils reside providing for the payment by the latter of an amount sufficient to reimburse the district of attendance for the total cost of educating the pupil, including the total of the amounts expended per pupil for the current expenses of education, the use of buildings and equipment, the repayment of local bonds and interest payments and state building loan funds, capital outlay, and transportation to and from school. The amount of the tuition for the current expenses of education per unit of average daily attendance of pupils from the adjoining state shall equal the average current expenditure, exclusive of all transportation expenditures, per unit of average daily attendance in the district of attendance. The per pupil cost attributable to capital outlay shall be on the basis of an average expenditure for the preceding five years. The cost of transportation shall not exceed ten dollars (\$10) per month. Tuition payments shall be made during the school year with final payment at the end of the school year after all costs have been determined. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of state funds. In lieu of entering an agreement with the governing board or authority of the school district in which the pupil from the adjoining state resides, the governing board of the school district in this state may enter an agreement with the parent or guardian of the pupil on the same terms as is provided in this section.

48051. Any person, otherwise eligible for admission to any class or school of a school district of this state, whose parents are or are not

citizens of the United States, whose actual and legal residence is in a foreign country adjacent to this state, and who regularly returns within a 24-hour period to said foreign country may be admitted to the class or school of the district by the governing board of the district.

48052. The governing board of the district shall, as a condition precedent to the admission of any person, under Section 48051, require the parent or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost of educating the person, including the total of the amounts expended per pupil for the current expenses of education, the use of buildings and equipment, the repayment of local bonds and interest payments and state building loan funds, capital outlay, and transportation to and from school. The per pupil cost attributable to capital outlay shall be on the basis of an average expenditure for the preceding five years. The cost of transportation shall not exceed ten dollars (\$10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of state funds. The school district shall not be eligible for nonimmigrant or noncitizen reimbursement under the provisions of Chapter 11 (commencing with Section 42900) of Part 24 of Division 3 of this title, Article 2 (commencing with Section 56865) of Chapter 6 of Part 30 of this division for these students.

48053. Notwithstanding any other provisions of this code, and except as provided in Section 3074.7 of the Labor Code, no charges or fees of any kind shall be required to be paid by any apprentice, or by his parents or guardian, for admission or attendance in any class in any school district which provides instruction under Section 3074 of the Labor Code in accord with the requirements of subdivision (d) of Section 3078 of that code. Nothing contained in this section, however, shall be construed as prohibiting the governing board of a school district providing nonresident apprentices of that district with such instruction under Section 3074 of the Labor Code from charging to, or collecting from, the school district in which such nonresident apprentices reside, tuition and other charges or fees in accordance with the definitions and provisions contained elsewhere in this code.

## CHAPTER 2. COMPULSORY EDUCATION LAW

### Article 1. Persons Included

48200. Each person between the ages of 6 and 16 years not exempted under the provisions of this chapter is subject to compulsory full-time education. Each person subject to compulsory

full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 3 (commencing with Section 48400) of this part shall attend the public full-time day school or continuation school or classes for the full time for which the public schools of the city, city and county, or school district in which the pupil lives are in session and each parent, guardian, or other person having control or charge of such pupil shall send the pupil to the public full-time day school or continuation school or classes for the full time for which the public schools of the city, city and county, or school district in which the pupil lives are in session.

48201. Any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

48202. The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

48203. The administration of each private school and public school district of any county shall, upon the severance of attendance or the denial of admission of any child who is physically handicapped, mentally retarded, or multiple handicapped but is otherwise subject to the compulsory education laws of California, report such severance, expulsion, exclusion, exemption, transfer, or suspension beyond 10 schooldays to the county superintendent of schools in the

jurisdiction. The report shall include names, ages, last known address, and the reason for such severance, expulsion, exclusion, exemption, transfer, or suspension.

It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Section 48914 and with the same powers of final decision as therein provided.

### Article 2. Persons Excluded

48210. Children under six years of age are excluded from the public schools, except as provided in this code.

48211. The governing body of any school district may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.

48212. The governing board of the school may exclude from attendance on regular school classes any child whose physical or mental disability is such as to cause his attendance to be inimical to the welfare of other pupils.

### Article 3. Pupils Exempt

48220. The classes of children described in this article, shall be exempted by the proper school authorities from the requirements of attendance upon a public full-time day school.

48221. Children whose physical or mental condition is such as to prevent, or render inadvisable attendance at school or application to study shall be exempted, and the governing board of the school district shall require satisfactory evidence of the condition to be furnished.

48222. Children who are being instructed in a private full-time day school by persons capable of teaching shall be exempted. Such school shall, except under the circumstances described in Section 30, be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state. The attendance of the pupils shall be kept by private school authorities in a register, and the record of attendance shall indicate clearly every absence of the pupil from school for a half day or more during each day that school is maintained during the year.

Exemptions under this section shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private school has complied with the provisions of Section 33190 requiring the annual filing by the owner or other head of a private school of an affidavit

or statement of prescribed information with the Superintendent of Public Instruction. The verification required by this section shall not be construed as an evaluation, recognition, approval, or endorsement of any private school or course.

48223. Children who are mentally gifted and who are being instructed in a private full-time day school by persons capable of teaching, where all or part of the courses of instruction required to be taught in the public schools of this state is taught in a foreign language with not less than 50 percent of the total daily instructional time taught in the English language, shall be exempted. The attendance of the pupils shall be kept pursuant to Section 48222.

48224. Children not attending a private, full-time, day school and who are being instructed in study and recitation for at least three hours a day for 175 days each calendar year by a private tutor or other person in the several branches of study required to be taught in the public schools of this state and in the English language shall be exempted. The tutor or other person shall hold a valid state credential for the grade taught. The instruction shall be offered between the hours of 8 o'clock a.m. and 4 o'clock p.m.

48225. The governing board of any school district which has children holding work permits to work temporarily in the entertainment or allied industries who are exempted from attending public full-time day school under the provisions of this article, or a county superintendent of schools, may contract with any person, firm or corporation responsible for the education of any children, so employed or acting on behalf thereof, to provide eligibility lists and placement services for qualified teaching and other necessary personnel for the tutoring of such children while so employed. Such personnel shall not for these purposes be deemed public employees. The contract shall require the payment of all costs of the school district, or the county superintendent of schools in providing the lists or services.

48226. Any child who is blind or deaf or partially blind or deaf to an extent which renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition is such as to permit application to study shall be exempted from the provisions of this chapter, only when he is resident of a city, county, or school district which does not maintain special classes for the admission of such pupils and when he may not be admitted to the State School for the Blind, or the State School for the Deaf, but he shall be exempted only upon the written approval of the superintendent of schools of the county.

48227. Upon the recommendation of the principal of the school which any minor over the age of 14 years is attending and has been attending during the next preceding school year, the supervisor of attendance, or, if there is no supervisor of attendance, the superintendent of schools having jurisdiction over the place of the school attendance may assign the minor to a vocational course in a place of employment. The employment shall be in lieu of the regular

school course which the minor is pursuing.

48228. An assignment to a vocational course shall not be made until the recommendation of the school principal has been approved by the Superintendent of Public Instruction, and until a permit to work has been issued to the minor by the person authorized to issue permits to work. The permit to work shall specify the hours in which the minor shall be required to attend part-time continuation classes.

48229. Any minor assigned to a vocational course shall be continued under the jurisdiction of the school last attended and may at any time be returned to the classes therein by the supervisor of attendance making the assignment when in his judgment the educational, physical, or moral interests of the minor will be best served thereby.

48230. Children who hold permits to work shall be exempted, but such children shall be subject to compulsory attendance upon part-time classes.

#### Article 4. Supervisors of Attendance

48240. The board of education of any school district and of any county shall appoint a supervisor of attendance and such assistant supervisors of attendance as may be necessary to supervise the attendance of pupils in the district or county. The board shall prescribe the duties of the supervisor and assistant supervisors of attendance, not inconsistent with law, to include, among other duties that may be required by the board, those specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs, now required of such attendance supervisors by this chapter and Article 4 (commencing with Section 48450) of Chapter 3 and Article 2 (commencing with Section 48630) of Chapter 4 of this part.

48241. In any city or city and county no supervisor of attendance or assistant supervisors of attendance shall be appointed, unless he has been lawfully certificated for the work by the county board of education.

48242. The board of school trustees of any district of a county may appoint a district supervisor of attendance to act under the direction of the county supervisor of attendance.

48243. Two or more districts may unite in appointing a district supervisor of attendance and in paying his compensation.

48244. A district may, with the approval of the county board of education, contract with the county superintendent of schools for the supervision of attendance of pupils in the school district. The county superintendent of schools shall transfer from the funds of the district to the county school service fund an amount equal to the actual cost of providing for the supervision of attendance.

48245. In any district or districts with an average daily attendance of 1,000 or more school children, according to the annual school

report of the last preceding school year, no district supervisor of attendance shall be appointed, unless he has been lawfully certificated for the work by the county board of education.

48246. The attendance supervisor, who is a full-time attendance supervisor performing no other duties, of any county, city and county, or school district in which any place of employment is situated, or the probation officer of the county, may at any time enter into any such place of employment for the purpose of examining permits to work or to employ of all minors employed in such place of employment, or for the purpose of investigating violations of the provisions of the Labor Code or of the provisions of this chapter, or Chapter 7 (commencing with Section 49100) of this part. If the attendance supervisor or probation officer is denied entrance to such place of employment, or if any violation of laws relating to the education of minors is found to exist, the attendance supervisor or probation officer shall report the denial of entrance or the violation to the Labor Commissioner. Such report shall be made within 48 hours and shall be in writing, setting forth the fact that he has good cause to believe that such laws are being violated in such place of employment and describing the nature of the violation.

#### Article 5. Truants

48260. Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse more than three days or tardy in excess of 30 minutes on each of more than three days in one school year is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

48261. Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

48262. Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261.

48263. If any pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board. The supervisor of attendance, or such other persons as the governing board of the school district or county may designate, making such referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board to which the matter has been referred and of the reason for such referral. The notice shall

indicate that the pupil and parents or guardians of the pupil will be invited, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil fails to respond to directives of the school attendance review board or to services provided, the school attendance review board shall direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county.

48264. The attendance supervisor, a peace officer, or any school administrator or his designee, may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

48265. Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

48266. Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

48267. Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the pupil's probation or parole officer.

48268. The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

48269. If the parent, guardian, or other person having control or charge of the child, within three days after the rendition of the judgment executes a good and sufficient bond to the governing board of the school district with sufficient sureties in the sum of two

hundred dollars (\$200), conditioned that the child will, during the remainder of the current school year, regularly attend some public or private school in the city, or city and county, or school district, and not be insubordinate or disorderly during his attendance, then the court may make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be approved by the judge of the court, and be filed with the secretary of the board of education, or clerk of the board of trustees.

48270. If the condition of the bond is violated, the court upon receiving satisfactory evidence of the fact in any action brought therefor, shall make an order declaring the bond forfeited, and directing judgment to be enforced.

48271. The governing board of the school district may, at any time within one year after the bond has been declared forfeited, have execution issued against any of the parties to the bond to collect the amount thereof. All money paid or collected on the bond shall be paid into the county treasury as provided for in Section 41001.

48272. The county superintendent of schools in each county shall annually report to the Superintendent of Public Instruction the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263 and shall certify to the Superintendent of Public Instruction whether or not each school district within the county has complied with provisions of this chapter. Reports shall be submitted on forms prepared by the Superintendent of Public Instruction.

48273. The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the information required to be reported by the county superintendent of schools as required by this chapter.

#### Article 6. Violations

48290. The governing board of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian, or other person having control or charge of any child, for violation of any of the provisions of this chapter.

48291. If it appears upon investigation that any parent, guardian or other person having control or charge of any child has violated any of the provisions of this chapter, the secretary of the board of education, except as provided in Section 48292, or the clerk of the board of trustees, shall make and file in the proper court a criminal complaint against the parent, guardian, or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority.

48292. In counties, cities, and cities and counties, and in school districts having an attendance supervisor, the attendance supervisor shall make and file the complaint provided for by this article and

shall see that the charge is prosecuted by the proper authorities.

48293. Any parent, guardian, or other person having control or charge of any pupil who fails to comply with the provision of this chapter, unless excused or exempted therefrom, is guilty of a misdemeanor, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than twenty-five dollars (\$25) or by imprisonment in the county jail for a period of not more than five days.

(2) Upon a second or subsequent conviction, by a fine of not less than twenty-five dollars (\$25) or more than two hundred fifty dollars (\$250), by imprisonment in the county jail for a period of not less than five days or more than 25 days, or by both such fine and imprisonment.

48294. All fines paid as penalties for the violation of any of the provisions of this chapter shall, when collected or received, be paid over by the justice, court or officer receiving them to the treasurer of the city, county, or city and county, in which the offense was committed, to be placed to the credit of the school fund of the school district in which the offense was committed.

48295. Any judge of a municipal or justice court in which the school district is located, or in which the offense is committed, has jurisdiction of offenses committed under this article.

48296. No fees shall be charged or received by any court or officer in any proceeding under this chapter.

#### Article 7. Compulsory Education for the Deaf

48310. Every parent, guardian, or other person having control of any minor over five years of age and less than 20 years of age who, by reason of deafness or impaired hearing, is unable to benefit materially by the methods of instruction in use in the public schools, shall send the minor to a school or class for the deaf maintained by a school district or by the state for the full time for which the school or class is in session. The minor shall attend the school or class year after year until completion of the prescribed course of study or until discharged for good reason by the principal or other person in charge of the school or class with the approval of the governing board.

48311. Every attending or consulting physician who examines any child under 20 years of age found to be totally deaf, or with impaired hearing, as defined by the State Board of Education, shall report at once to the Department of Education the name, age, residence, and the name of the parent or guardian of the minor.

#### Article 8. School Attendance Review Boards

48320. (a) In enacting this article it is the intent of the Legislature that intensive guidance and coordinated community services shall be provided to meet the special needs of pupils with school attendance problems or school behavior problems.

(b) Any school attendance review board, established pursuant to this article, which determines that available public and private services are insufficient or inappropriate to correct school attendance or school behavior problems of minors shall:

(1) Propose and promote the use of alternatives to the juvenile court system.

(2) Provide, in any proposed alternative, for maximum utilization of community and regional resources appropriately employed in behalf of minors prior to any involvement with the judicial system.

(3) Encourage an understanding that any alternative based on the utilization of community resources carries an inherent agency and citizen commitment directed toward the continuing improvement of such resources and the creation of resources where none exist.

48321. (a) There is in each county a county school attendance review board. The county school attendance review board shall include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, and (4) the county superintendent of schools. The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

(b) Local school attendance review boards may include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, and (4) the county superintendent of schools. Other persons or group representatives shall be appointed by the county board of education.

(c) The county school attendance review board shall elect pursuant to regulations adopted pursuant to Section 48324, one member as chairman with responsibility for coordinating services of the county school attendance review board.

(d) The county school attendance review board shall provide for the establishment of local school attendance review boards in such number as shall be necessary to carry out the intent of this article.

(e) The county school attendance review board shall provide consultant services to, and coordinate activities of, local school attendance review boards in meeting the special needs of pupils with school attendance or school behavior problems.

(f) When the county school attendance review board determines that the needs of pupils as defined in this article can best be served by a single board, the county school attendance review board shall then serve as the school attendance review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that district.

(g) Nothing in this article is intended to prohibit any agreement on the part of counties to provide such services on a regional basis.

48322. The county school attendance review board shall encourage local school attendance review boards to maintain a continuing inventory of community resources, including alternative educational programs, and to make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

48323. Each of the departments or agencies required to participate in school attendance review boards shall assign personnel to represent the department or agency on a continuing basis in accordance with the intent of this article. The duties, obligations, or responsibilities imposed on local governmental entities by this act are such that the related costs are incurred as a part of their normal operating procedures. The minor costs of such services shall be borne by each agency or department and each or all of the participants may apply for and utilize state or federal funds as may be available.

48324. The county school attendance review board shall adopt such rules and regulations not inconsistent with law, as are necessary for its own government and to enable it to carry out the provisions of this article. The rules and regulations shall be binding upon the local school attendance review boards which are established pursuant to subdivision (d) of Section 48321.

### CHAPTER 3. COMPULSORY CONTINUATION EDUCATION

#### Article 1. Pupils Subject To

48400. All persons 16 years of age or older and under 18 years of age, not otherwise exempted by this chapter, shall attend upon special continuation education classes maintained by the governing board of the high school district in which they reside, or by the governing board of a neighboring high school district, for not less than four 60-minute hours per week for the regularly established annual school term. Such minimum attendance requirement of four 60-minute hours per week may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

48401. The complaint of any citizen of a school district that such school district has failed to meet the requirements of providing continuation education classes pursuant to this chapter shall be presented to the county superintendent of the county in which such district is located. If, upon investigation, the county superintendent of schools finds the complaint to be justified, he shall forward the complaint along with the results of his investigation to the Superintendent of Public Instruction who shall take steps to enforce compliance with the provisions of this chapter.

48402. Whenever a minor subject to the provisions of this chapter, who is not otherwise exempted by this chapter, cannot give satisfactory proof of regular employment he shall attend, for not less than 15 hours per week, special continuation education classes

during the period of unemployment. The minimum attendance requirement of 15 hours per week may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

48403. If any person subject to the provisions of this chapter is an habitual truant or is irregular in attendance as required by this chapter or is habitually insubordinate or disorderly during attendance at school, the county superintendent of schools may request a petition on his behalf in the juvenile court of the county.

## Article 2. Pupils Exempt

48410. There are exempted from compulsory attendance in continuing education classes as otherwise required by Sections 48400 and 48402, persons who:

(a) Have been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have had an equal amount of education in a private school or by private tuition.

(b) Are in attendance upon a public or private full-time day school, or satisfactory part-time classes maintained by other agencies.

(c) Are disqualified for attendance upon these classes because of their physical or mental condition, or because of personal services that must be rendered to their dependents.

(d) Are satisfactorily attending a regional occupational program or center as provided in Section 48432.

(e) Have successfully demonstrated proficiency equal to or greater than standards as established by the Department of Education pursuant to Section 48412, and have verified approval submitted by their parent or guardian.

(f) Are subject to Section 48400 but not Section 48402 and are in attendance upon classes for adults for not less than four clock hours per calendar week.

48412. (a) Any person subject to compulsory continuation education or exempt from it pursuant to subdivision (b), (c), (d), or (f) of Section 48410 may apply to have his proficiency in basic skills taught in public high schools verified according to criteria established by the Department of Education.

The State Board of Education shall award a "certificate of proficiency" to pupils who demonstrate such proficiency. The certificate of proficiency shall be equivalent to a high school diploma, and the Department of Education shall keep a permanent record of the issuance of all such certificates.

(b) The Department of Education shall develop standards of competency in basic skills taught in public high schools and shall prepare and supply to centers approved by the department means to verify such competency in order to measure eligibility for exemption from compulsory continuation attendance as provided in subdivision (e) of Section 48410.

(c) The Department of Education may charge a fee for each examination application in an amount sufficient to recover the costs of administering the requirements of this section; provided, however, that such fee shall not exceed ten dollars (\$10) per examination application. All fees levied and collected pursuant to this section shall be deposited in the State Treasury for remittance to the current support appropriation of the Department of Education as reimbursement for costs of administering this section. Any reimbursements collected in excess of actual costs for administration of this section shall be transferred to the unappropriated surplus of the General Fund by order of the Director of Finance.

(d) The State Board of Education shall adopt such rules and regulations as are necessary for implementation of the provisions of this section.

48413. Persons 16 years of age or older and under 18 years of age who have not been graduated from high school shall be permitted by the governing board to enroll in continuation classes conducted by the school district pursuant to Article 3 (commencing with Section 48430) of this chapter if such enrollment does not preclude attainment of the goals of continuation education schools and classes prescribed in Article 3 (commencing with Section 48430) of this chapter, as determined by the governing board. The provisions of Article 5 (commencing with Section 48260) of Chapter 2 of this part shall be applicable to such persons.

48414. Any person 16 or 17 years of age exempt from compulsory continuation attendance laws by subdivision (e) of Section 48410 shall be permitted by the governing board of the school district from which the student came to reenroll in the district, without prejudice, as if he had never taken advantage of subdivision (e) of Section 48410.

48415. In the case of attendance upon private school, exemption from the requirements of attendance upon compulsory continuation education shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private school has complied with the provisions of Section 33190 requiring the annual filing by the owner or other head of a private school of an affidavit or statement of prescribed information with the Superintendent of Public Instruction. The verification required by this section shall not be construed as an evaluation, recognition, approval, or endorsement of any private school or course.

### Article 3. Continuation Classes

48430. In enacting this article, it is the intent of the Legislature that continuation education schools and classes shall be established and maintained in order to meet the special educational needs of pupils to provide: (1) an opportunity for the completion of the

required academic courses of instruction to graduate from high school, (2) a program of individualized instruction that may emphasize occupational orientation or a work-study schedule which follows the intent and purposes of Sections 48435, 48436, 51055, and 51204, or (3) a specially designed program of individualized instruction and intensive guidance services to meet the special needs of pupils with behavior or severe attendance problems, or (4) a flexible program combining the features in (1), (2), and (3).

48431. The governing board of each high school district shall establish and maintain a program of guidance, placement, and followup for all minors within the district subject to compulsory continuation education.

48432. The governing board of each high school district and each unified school district shall establish and maintain within its boundaries special continuation education classes and may establish and maintain regional occupational centers or programs, in accordance with the provisions of Section 52301, whenever there are any minors residing within the district who are subject to compulsory continuation education; provided, that if there are fewer than 100 students enrolled in grade 12 in any school of the district maintaining that grade, the governing board of the district may apply to the State Department of Education for exemption of that school from the requirements of this section and such exemption may be granted in accordance with rules and regulations that shall be adopted by the State Board of Education to govern the granting of the exemptions. An exemption may also be granted to schools having an enrollment of more than 100 pupils in grade 12 if the district seeking the exemption has entered into an agreement with another high school district or unified school district to maintain special continuation education classes for minors residing in either of the districts, but shall not be granted if the agreement would make it necessary for such minors to travel an excessive distance from their homes to the continuation education classes.

If there is a regional occupational center or program as provided in Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, of this division within a county, the governing board of any school district within that county may enroll minors, otherwise subject to, and in lieu of, continuation education, in the center or program in accordance with the provisions of Section 52314.

48433. Special continuation education classes or classes conducted by a regional occupational center or any combination thereof shall provide at least four 60-minute hours of instruction per week for each minor within the high school district who is subject to compulsory continuation education.

48434. (a) Except as otherwise provided in subdivision (b), such classes shall be maintained between the hours of 8 a.m. and 5 p.m. If the governing board of the school district determines that the special needs of the community or pupils require it, such classes may be maintained until 6:30 p.m.

(b) If the school district maintains classes for adults, the governing board of the school district may maintain continuation education classes during such hours and for such length of time during the day or evening as the classes for adults are maintained.

48435. Such classes shall provide suitable instruction for the various individuals for whose benefit they are established.

48436. The State Board of Education shall prescribe and enforce standards and regulations for the organization and administration of programs of guidance, placement and followup, for programs of coordination and instruction in continuation education, for the special reimbursement thereof, and for the certification of teachers and coordinators for continuation education.

48437. The governing board of a school district or school districts, as the case may be, maintaining special continuation education classes may accept and expend grants from the federal government or from other public or private sources for the purpose of this article.

48438. The governing board of a school district or school districts, as the case may be, maintaining special continuation education classes shall provide for an independent study of the effectiveness of such program and shall file a copy of the report on such study with the Department of Education.

#### Article 4. Violations

48450. Each parent, guardian, or other person having control or charge of any minor required to attend special continuation education classes, shall compel the attendance of the minor upon the classes. He shall retain a copy of the permit to work and shall present it upon request of any officer of the law, or other person authorized to enforce the provisions of this chapter.

48451. The governing board of any high school district in which a minor resides who violates the provisions of this chapter shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian, or other person having control or charge of the minor for violation of the provisions of Section 48450.

48452. If it appears upon the investigation that any parent, guardian, or other person having control or charge of the minor has violated the provisions of Section 48450, the clerk of the board, or other person authorized by the board to bring such actions, shall make and file in the proper court a criminal complaint against the parent, guardian, or other person having control or charge of the minor, charging the violation, and shall see that the charge is prosecuted by the proper authorities.

48453. In cities, and in cities and counties, and in school districts having an attendance supervisor, the attendance supervisor shall make and file the complaint provided for in this article, and shall see that the charge is prosecuted by the proper authorities.

48454. Any parent, guardian, or other person having control or

charge of any minor subject to this chapter who fails to perform any of the duties imposed upon him by the provisions of Section 48450 is guilty of a misdemeanor, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than twenty-five dollars (\$25) or by imprisonment in the county jail for a period of not more than five days.

(2) Upon a second or subsequent conviction, by a fine of not less than twenty-five dollars (\$25) or more than two hundred fifty dollars (\$250), by imprisonment in the county jail for a period of not less than five days or more than 25 days, or by both such fine and imprisonment.

#### CHAPTER 4. ATTENDANCE AT ADJUSTMENT SCHOOLS

##### Article 1. Twenty-four Hour Elementary Schools

48600. The purpose of this article is to provide for the operation of 24-hour elementary schools, established pursuant to Article 18 (commencing with Section 940) of Chapter 2 of Part 1 of Division 1 of the Welfare and Institutions Code, for minors between the ages of 8 and 16 years and to provide for the attendance, maintenance, care, home supervision, guidance, observation, and education of minors attending the schools, and to provide the minors with such vocational, homemaking, mental, moral, physical, and other training as will tend to strengthen and develop them and enable them to become good and useful citizens. The staff of every 24-hour school shall make adjustment as rapidly as possible in order that the period of time the child is away from ordinary community life may be as brief as possible. They shall place the minors in properly licensed children's institutions where they will be assured of suitable educational opportunities, and shall cooperate with child placement agencies to this end and to stimulate proper care of the minors by their parents.

For purposes of this article, the county superintendent of schools shall have the primary authority to provide for the education and training of minors in 24-hour schools within his county.

48601. This article shall be construed in conformity with the intent as well as the express provisions thereof and shall confer upon the county probation officer, and the county superintendent or governing board, as the case may be, of any 24-hour school that may be created authority to do all those lawful acts which it may deem necessary to promote the prosperity of the school, or to promote the well-being and education of all minors entrusted to its charge.

48602. The county superintendent of schools or the governing board of the district, as the case may be, which shall have, in reference to 24-hour schools, the same powers and duties which are now or may hereafter be assigned by law for the management of other schools. A 24-hour school established by a school district maintaining elementary schools shall be one of the public

elementary schools of the district. The average daily attendance of each such school shall be reported to the Superintendent of Public Instruction for purposes of allowances and apportionments from the State School Fund in the manner otherwise prescribed by and pursuant to law.

48603. The cost of securing sites or constructing and equipping buildings and in general the cost of housing and equipping any 24-hour school, including the necessary dormitories, dining halls, and other living quarters for pupils and employees of the county or the district shall be a charge against the funds of the county or school district maintaining it. The county superintendent or governing board of any district, as the case may be, may employ such principals, assistants, teachers, and employees as it deems necessary for the proper conduct of the 24-hour school and may pay them from available funds. The expenses of lodging and boarding pupils residing within the buildings of any 24-hour school shall be paid from the sums received from contracts with the parents or guardians of the pupils, or from the funds of the county within which the school is located paid to the school district, if applicable, in pursuance of court orders for the maintenance of pupils.

48604. The superintendent appointed pursuant to Section 942 of the Welfare and Institutions Code may reside in the 24-hour school and may be furnished suitable quarters, furniture, food, supplies, and laundry for himself and his family. The county superintendent or governing board of the district, as the case may be, may make provision for the employment of such certificated personnel, including a principal, and such classified personnel at such school as may be necessary for the education and training of the minors enrolled.

48605. Admission and discharge of minors with behavioral disorders to programs provided under the provisions of this article shall be made only on the basis of an individual evaluation according to standards established by the State Board of Education and upon the recommendation of an admissions committee which shall include a teacher, a psychologist, a school nurse or social worker, a principal or supervisor, an attendance supervisor, a licensed physician, a representative of the probation department and a representative of the social welfare department of the county in which the 24-hour school is located.

48606. The board of admission, or some person or persons designated by it, shall investigate the case of any child whose name is submitted in writing accompanied by a signed statement for consideration for admission to the school and shall make recommendations in each case. The board of admission shall observe the progress of each child, and shall advise and recommend his release as soon as sufficient progress is indicated.

48607. The county superintendent or governing board, as the case may be, maintaining a 24-hour school may accept in the school any minor between the ages of 8 and 16 years who is a resident of

the county or the school district, as the case may be, whose parent or guardian does not exercise proper care, supervision, and guidance over him, or who is, by reason of insubordinate conduct, or refusal to obey the rules and regulations of the school authorities, in need of special educational training and discipline to prevent him from becoming subject to the provisions of the juvenile court law. The pupil may be assigned to the school by order of the county superintendent or the superintendent of schools of the district, as the case may be, approved in writing by the parent, or guardian in compliance with the recommendation of the board of admission. If the parent or guardian of the pupil enters into a contract with the county or school district, as the case may be, for the support of the pupil, he may be maintained in the school for the period of the assignment.

48608. If the parent or guardian of the pupil refuses to enter into a contract providing for the payment to the county or school district, as the case may be, of a sum sufficient to meet the average cost of maintaining a pupil within the school, including meals and a reasonable sum for lodging, and if the presence of the child within another school of the county or district, as the case may be, or within its home is a menace to the future welfare of other children or of the child itself, the county superintendent or superintendent of schools of the district, as the case may be, shall cause to be filed in the superior court of the county, acting in the department of the court performing the functions of the juvenile court or in any other court of competent jurisdiction, a complaint asking for an order of the court, committing the child to the 24-hour school and fixing the amount the parent or guardian shall pay for his maintenance until such time as the county superintendent or superintendent of schools of the district, as the case may be, reports to the court that the best interests of the minor will be served by his discharge from the school. A copy of the complaint shall at the same time be furnished the parent or guardian. If the parent or guardian is unable to pay the amount, the court may in the order provide for the payment by the county of a sum sufficient to cover the costs of maintenance of the child during the period of his commitment to the school.

48607. The principal of any school in the county or district, as the case may be, in which there has been established a 24-hour school shall report to the county superintendent or superintendent of schools of the district, as the case may be, after conference held with the parent or guardian, any pupil in his school who he believes comes within the provisions and intent of this article. This report shall be in writing and shall set forth the facts upon which he believes that the child comes within the provisions of this article.

48610. Any minor who has been placed in the care and control of the 24-hour school without the consent of the parent or guardian, shall remain therein, if placed by order of the court, for the duration of the period provided by the order, or until recommendation is made by the admissions and discharge committee to the court

requesting that consideration be given the minor's release.

48611. If the minor has been placed in the 24-hour school by order of the county superintendent or superintendent of schools of the district, as the case may be, the parent or guardian with whose consent the minor was placed in the school, upon application to the county superintendent or superintendent of schools, as the case may be, who placed him therein, may secure the release of the minor and his restoration to the care, custody, and control of the parent or guardian. The county superintendent or superintendent of the district, as the case may be, shall require a written report from the principal of the 24-hour school, giving the progress of the child and the advisability of the release of the child from the 24-hour school. If the report indicates that the minor is in need of further care and treatment and that his release would be detrimental to his own welfare or the welfare of others, the county superintendent or superintendent of the district, as the case may be, may report the minor to the juvenile court or other proper court for action.

48612. If, in the opinion of the principal of any 24-hour school, the further detention of any minor is detrimental to the minor, the minor may upon order of the principal be returned to the county superintendent or superintendent of schools of the district, as the case may be, in which the school is located or to the court which committed him, as may seem necessary for the best interest of the child.

48613. Any pupil who absents himself from any 24-hour elementary school without permission being first obtained from the principal shall be deemed an habitual truant within the meaning of Section 601 of the Welfare and Institutions Code, and dealt with as such.

Any person who contributes to the absence of any pupil from the school without permission first having been obtained from the principal, or advises, connives at, or aids or assists in such absence or conceals any pupil after such absence is guilty of a misdemeanor.

48614. The course of study for the pupils and the methods used in enforcing the course of study shall be approved by the county superintendent or the governing board of the district, as the case may be. There shall also be provided in the schools the proper facilities and equipment for vocational and trade training.

48615. Each 24-hour school may conduct clinics for the diagnosis and observation of children and may advise parents and school authorities regarding courses of study or treatment in the interests of the normal development of any child and to prevent waywardness and delinquency.

48616. The funding of the educational vocational program conducted in a 24-hour school shall be in the manner described by Section 41703 when maintained by the county superintendent of schools. Twenty-four-hour schools maintained by the county superintendent shall be considered a necessary small school as defined by Section 41702.

48617. The county probation officer having management and control of a 24-hour school may enter into a contract with any other county or state agency to provide for the supervision, care and treatment of the minors placed in the 24-hour school.

48618. The enrollment in each 24-hour school shall be limited to the standards established under Section 56615.

## Article 2. Opportunity Schools

48630. In enacting this article, it is the intent of the Legislature to provide an opportunity for pupils who are, or are in danger of becoming, habitually truant from instruction upon which they are lawfully required to attend, or who are, or are in danger of becoming, irregular in attendance, or who are, or are in danger of becoming, insubordinate or disorderly during their attendance upon instruction to resolve their problems so that they may maintain themselves in regular classes or reestablish themselves for return to regular classes or regular schools as soon as practicable.

48631. The assignment of any pupil to an opportunity school, class, or program shall be conducted with a view to the improvement of the pupil and to his restoration, as soon as practicable, to the regular school and regular class in which he would, if not so assigned, be required to attend. The governing board of a school district maintaining an opportunity school may confer a diploma upon any pupil who has satisfactorily completed the prescribed course of study of the school district in an opportunity school maintained by the district.

48632. "Opportunity program" as used herein refers to a program which is in accordance with the purposes and provisions of this article and is established in any elementary or secondary school of a school district for less than the minimum day required of opportunity school or class pupils.

48633. The governing board of any school district, or the county board of education, may establish schools or may set apart public school buildings or may set apart in public school buildings a room or rooms for pupils in grades 1 through 12, inclusive, as described in Section 48630. The school building so established or set apart shall be known as an opportunity school and the room or rooms set apart in a public school building shall be known as opportunity class or classes.

48634. Any governing board or county board of education establishing and maintaining an opportunity school or opportunity classes may make such special rules and regulations for its government and administration as are consistent with the provisions and purposes of this article, and not contrary to law.

48635. An opportunity school may be established as an elementary or secondary school, and an opportunity class or program may be established in any elementary or secondary school of any school district.

48636. The opportunity school, class, or program shall be

established and maintained specially for the instruction of such pupils in grades 1 through 12, inclusive, as are assigned thereto by the city superintendent of schools, or, if there is no city superintendent, the board of education of any city or city and county, or the county superintendent of schools as provided by this code.

48637. The governing board of any school district, or the district superintendent of schools, or any person designated by the governing board in writing, may assign pupils to an opportunity school, class, or program in accordance with the provisions and purposes of this article.

48638. If any pupil assigned to an established opportunity school, class, or program is a habitual truant, or is irregular in attendance at such opportunity school, class, or program, or is insubordinate or disorderly during attendance at such opportunity school, class, or program, the supervisor of attendance or such other persons as the governing board of the school district or county may designate shall refer the pupil to a school attendance review board in the county. If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil, it shall direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. If the court upon hearing the case finds that the allegations are sustained by the evidence, the court, in addition to any other judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the child shall deliver him at the beginning of each schoolday, for the remainder of the school term, to the opportunity school, class, or program designated by school authorities.

48639. The governing board of a school district or school districts, as the case may be, or county board of education maintaining an opportunity school or opportunity class may accept and expend grants from the federal government or from other public or private sources for the purposes of this article.

48640. Opportunity schools established pursuant to this article by the county board of education shall be limited to counties which have an average daily attendance of less than 8,000.

48641. An opportunity school established by a county board of education in a county which has an average daily attendance of less than 8,000 shall be deemed to be in lieu of any continuation education program, and shall excuse the school districts within the county from complying with otherwise applicable statutes requiring the establishment of continuation education schools.

### Article 3. Adjustment Schools

48650. This article shall be construed in conformity with the intent as well as the expressed provisions thereof, and the governing board of any adjustment school may do all those lawful acts which it

deems necessary to promote the prosperity of the adjustment school, or to promote the well-being and education of all minors entrusted to its charge.

48651. The terms and provisions of Article 16 (commencing with Section 900) of Chapter 2 of Part 1 of Division 2 and Section 579 of the Welfare and Institutions Code shall, so far as applicable, govern and control proceedings under this article.

48652. The boards of supervisors or other governing bodies of counties and cities and counties may organize, establish, equip, and maintain, including the purchase of suitable sites and the construction of suitable buildings, adjustment schools in each county or city and county for the purpose of furnishing to minors under the age of 18 years pursuant to this article, care, custody, education, training, and adjustment to good citizenship, which shall be continuous and uninterrupted during the period the minors remain in school.

48653. The boards of supervisors of two or more counties may by regularly adopted resolutions or ordinances duly entered on the minutes or proceedings of their respective boards, unite in the organization, establishment, equipment, and maintenance of adjustment schools for the respective counties. In that event, the schools shall be located in one or more of the counties as shall be mutually agreed upon and designated in the resolutions or ordinances.

48654. If adjustment schools are organized by only one county or city and county, the government and management shall be vested in a governing board which shall be either the board of education, or similar school governing body, or the county probation committee of the juvenile court, or a board of trustees composed of seven members selected from both the board of education and the probation committee, as may be determined or chosen in the exercise of a sound discretion by the board of supervisors or other governing body of the county or city and county.

48655. If the adjustment schools are organized by the joint action of two or more counties, the boards of supervisors of the counties may by concerted action by duly adopted resolutions entrust the government and management to a governing board, which shall be any of the following:

(a) The board of education of the county in which at least one adjustment school is located.

(b) The probation committee of the juvenile court of the county in which at least one adjustment school is located.

(c) A board of trustees composed of seven members who shall represent all of the counties and each of whom may be selected from either the county board of education or the probation committee of the juvenile court of his respective county as shall be determined in the joint resolutions of the boards of supervisors.

48656. If a board of trustees is chosen to govern and manage the adjustment school the term of office of the trustees shall be six years,

except that of the seven trustees first selected, two shall hold office for two years, two shall hold office for four years, and three shall hold office for six years. Each of the two-, four-, and six-year terms shall be assigned by lot to each of the seven trustees.

48657. The governing board shall make all needful rules and regulations for the transaction of business and for the management and government of the adjustment school under its jurisdiction, and it shall see that proper care, custody, education, and training are provided for the minors under its care, to the end that the minors shall be adjusted to good citizenship and prepared to become honorable, self-supporting members of society.

48658. The governing board shall make all contracts for the organization, establishment, including the purchase of a suitable site and the construction of suitable buildings, equipment, operation, and maintenance of the adjustment school that may be necessary or advisable. In no event shall the amount of money appropriated for any such purpose or other limitation prescribed by law or by order of the governing board, be exceeded or violated.

48659. No member of the governing board, nor officer, nor employee of any adjustment school shall be interested, personally, directly, or indirectly, in any contract, purchase, or sale made, or in any business carried on in behalf of the school. Any money paid on such contracts or sales may be recovered by a civil suit, and the governing board upon the proof of such interest shall remove from office immediately the member, officer, or employee.

48660. The governing board of the adjustment school shall appoint a superintendent, not of its own number, who shall be a person qualified by training and experience for the character of work to be performed at the adjustment school, and who shall hold office at the pleasure of the governing board.

48661. The governing board shall determine the number, title, duties, and terms of office of all other officers and employees and shall fix their salaries, and that of the superintendent.

48662. The superintendent of the adjustment school shall, before entering upon the discharge of his duties, make and file with the governing board an oath that he will faithfully and impartially discharge his duties. He shall also file with the governing board a bond, running to the State of California in such sum as the board may determine, and with sureties to be approved by the board, conditioned upon the faithful performance of his duties. The premium of the bond shall be a part of the cost of maintaining the adjustment school.

48663. The superintendent, after making and filing the bond, shall, subject to the direction of the governing board, be invested with the custody of the lands, buildings, and all other property pertaining to or under the control of the adjustment school. He shall account to the governing board in such manner as it may require for all property entrusted to him and for all money received by him as superintendent of the adjustment school, or for any of the minors

entrusted to its care.

48664. The superintendent shall also, subject to the direction of the governing board, appoint all officers and employees of the adjustment school, who shall hold office at his pleasure. He shall exercise such supervisory, executive, and managing powers as are conferred upon him by the governing board.

48665. The superintendent shall reside in the adjustment school or one of the adjustment schools under his jurisdiction, and he shall be furnished suitable quarters, furniture, food supplies, and laundry for himself and his family. The governing board may make similar provision for such other officers and employees as the interests of the adjustment school may in its judgment require to reside on the premises.

48666. The adjustment school shall receive into its care, custody, and control all boys and girls under 18 years of age who are committed to it by order of the juvenile court of the county or city and county maintaining or contributing to the maintenance of the adjustment school.

48667. Any minor who has been committed to the care, custody, and control of any adjustment school shall remain in the school for the duration of the period provided in the order of commitment, or until further order of the juvenile court.

48668. The juvenile court shall review the order of commitment at least once each year, and upon review the court may continue, terminate, or modify the order of commitment.

48669. If at any time in the opinion of the superintendent of the adjustment school the further detention of the minor is detrimental to the interests of the school, the minor may immediately, upon order of the superintendent, be returned to the committing court, and the court may revoke its previous order, and proceedings may be resumed where they were suspended when the commitment was made.

48670. The governing board of any adjustment school shall cause the school to be conducted as may seem best calculated to carry out the intentions of this article.

48671. There shall be organized a course of study, corresponding as far as practicable with the course of study in the public schools of the state.

48672. There shall be provided in the adjustment school the proper facilities and equipment for vocational and trade training, in addition to such other public school education or training as may be determined upon by the governing board. Vocational or trade training education shall be given to each minor while under the care of the adjustment school, to the end that he may upon discharge be qualified for honorable and self-supporting employment.

48673. Any order of the juvenile court committing a minor to the care, custody, and control of an adjustment school may make provision for the expense of his support and maintenance by directing that the expense be paid in whole or in part by his parent,

guardian, or other person liable for his support and maintenance.

48674. If the adjustment school is organized, established, equipped, and maintained by only one county or city and county, the entire expense of the school shall be borne by the county or city and county, and the board of supervisors, or other governing body of the county or city and county shall make due and annual provision therefor. The necessary items of expense shall be set forth in the annual budget of the county or city and county.

48675. If an adjustment school is organized, established, equipped, and maintained by two or more counties, the initial expense of organizing, establishing, and equipping the school shall be apportioned between each of the counties on a pro rata basis in the ratio that the number of children of school age residing in each county bears to the number of children of school age residing in all of the counties.

48676. The annual expense of maintaining the school by two or more counties, shall be apportioned between the counties on a pro rata basis in the ratio that the average daily enrollment of minors placed in the school from each county during the preceding year bears to the total average daily enrollment in the school from all of the counties during the year.

48677. The governing board shall require any officer entrusted with money belonging to an adjustment school or to any of the minors entrusted to its care, or any officer placed in a position of trust and responsibility in the custody of property or in the handling of supplies belonging to the school, to file with the board a bond with sureties approved by the board and in such sum as it may determine, conditioned upon the faithful performance of the duties required, and upon the faithful accounting of all money and property coming into his hands or under his control by virtue of his office. The premiums on the bonds shall be a part of the cost of maintaining the adjustment school.

## CHAPTER 5. ATTENDANCE AT COMMUNITY COLLEGE

### Article 1. Advanced Education

48800. The governing board of any district maintaining a high school may determine which of the students in the 11th and 12th grades of the high school would benefit from advanced scholastic or vocational work. The governing board may authorize such students to attend a community college as special part-time students and to undertake one or more courses of instruction offered at the community college level. The number of students so authorized shall not exceed 15 percent of the number of students in the 11th and 12th grades at the high school at any one time.

48801. Any student authorized to attend a community college as a special part-time student pursuant to Section 48800 shall, nevertheless, be required to attend the high school for the minimum

school day, except as provided for in Section 46145 or 46147, and to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.

48802. For purposes of allowances and apportionments from the State School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of high school students at the community college as special part-time students pursuant to this article.

A district maintaining a high school whose 11th- and 12th-grade students attend a community college pursuant to this article shall, for purposes of allowances and apportionments from the State School Fund, continue to receive credit for attendance by such students computed in the manner prescribed by law, and a student's attendance at the high school for the minimum schoolday shall be deemed a day of attendance for purposes of making the computation.

## Article 2. Vocational Education Classes—11th and 12th Grades

48810. The principal of any high school may, with the approval of the governing board of the school district, permit 11th- and 12th-grade students to attend vocational education classes maintained by the community college district in which the high school is located, in accordance with Section 78009.

(Amended by Stats. 1976, Ch. 1011 )

### [ORIGINAL SECTION]

48810 The principal of any high school may, with the approval of the governing board of the school district, permit 11th- and 12th-grade students to attend vocational education classes maintained by the community college district in which the high school is located, in accordance with Section 76007.

## CHAPTER 6. PUPIL RIGHTS AND RESPONSIBILITIES

### Article 1. Suspension or Expulsion

48900. A teacher may suspend, for good cause, any pupil from his or her class for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal for appropriate action. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

48901. The principal of a school may suspend, for good cause, any pupil from the school, subject to the provisions of Sections 48910, 48911, and 48912. The principal shall report the suspension of such a

pupil to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

Any suspension pursuant to this section shall not exceed five schooldays.

48902. As used in Sections 48900 and 48901, "good cause" includes those offenses enumerated in Section 48903, but is not limited to those offenses.

48903. Continued willful disobedience, habitual profanity or vulgarity, open and persistent defiance of the authority of the school personnel, or assault or battery upon a student, upon school premises or while under the authority of school personnel, or continued abuse of school personnel, assault or battery upon school personnel, or any threat of force or violence directed toward school personnel, at any time or place shall constitute good cause for suspension or expulsion from school; however, no pupil shall be suspended or expelled unless the conduct for which he is to be disciplined is related to school activity or school attendance.

48903.5. (a) Smoking or having tobacco on school premises, or while under the authority of school personnel, constitutes good cause for the suspension or expulsion of a pupil except as provided in this section.

(b) The governing board of any school district maintaining a high school may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a high school or while under the authority of school personnel by pupils of the high school; provided that such rules and regulations shall not permit students to smoke in any classroom or other enclosed facility which any student is required to occupy or which is customarily occupied by nonsmoking students.

(c) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

48904. (a) For the protection of other pupils in the public school, the governing board of any school district may suspend, or expel, and the superintendent or a principal of any school district when previously authorized by the governing board may suspend, a pupil whenever it is established to the satisfaction of the board or the superintendent or principal, respectively, that the pupil has on school premises or elsewhere used, sold, or been in possession of narcotics or other hallucinogenic drugs or substances, or has inhaled or breathed the fumes of, or ingested, any poison classified as such by Schedule "D" in Section 4160 of the Business and Professions Code.

(b) Every sheriff or chief of police who arrests a minor of compulsory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as

such in Section 4160 of the Business and Professions Code, when a petition is requested in juvenile court or a complaint filed in any court alleging that such minor is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, shall without unnecessary delay give written notice to the superintendent of the school district of attendance.

(c) In any event where a sheriff or chief of police arrests a minor of compulsory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code and later releases such minor without filing a petition request with the juvenile court or a complaint in any court, the sheriff or chief of police may give written notice thereof to the superintendent of the school district of attendance if the sheriff or chief of police believes the school district will benefit by such notification.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

48904. (a) For the protection of other pupils in the public school, the governing board of any school district may suspend, or expel, and the superintendent or a principal of any school district when previously authorized by the governing board may suspend, a pupil whenever it is established to the satisfaction of the board or the superintendent or principal, respectively, that the pupil has on school premises or elsewhere used, sold, or been in possession of narcotics or other hallucinogenic drugs or substances, or has inhaled or breathed the fumes of, or ingested, any poison classified as such by Schedule "D" in Section 4160 of the Business and Professions Code.

(b) Every sheriff or chief of police who arrests a minor of compulsory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, when a petition is requested in juvenile court or a complaint filed in any court alleging that such minor is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, shall without unnecessary delay give written notice to the superintendent of the school district of attendance.

(c) In any event where a sheriff or chief of police arrests a minor of compulsory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 160 of the Business and Professions Code and later releases such minor without filing a petition request with the juvenile court or a complaint in any court, the sheriff or chief of police may give written notice thereof to the superintendent of the school district of attendance if the sheriff or chief of police believes the school district will benefit by such notification.

48905. It is unlawful for any pupil, enrolled in any elementary or secondary school of this state, to join or become a member of any secret fraternity, sorority, or club, wholly or partly formed from the membership of pupils attending the public schools, or to take part in

the organization or formation of any fraternity, sorority, or secret club. Nothing in this section shall be construed to prevent any pupil from joining the order of the Native Sons of the Golden West, Native Daughters of the Golden West, Foresters of America, or other kindred organizations not directly associated with the public schools of the state.

48906. Any governing board may enforce the provisions of Section 35291 by suspending, or, if necessary, expelling a pupil in any elementary or secondary school who refuses or neglects to obey any rules prescribed pursuant to that section.

48907. The governing board of any school district shall suspend or expel pupils for misconduct when other means of correction fail to bring about proper conduct.

48907.5. A governing board that has voted to expel a pupil may suspend the enforcement of such expulsion for a period of not more than one full semester in addition to the balance of the semester in which the board votes to expel and may, as a condition of such suspended action, assign the pupil to a school, class, or program which is deemed appropriate for rehabilitation of the pupil. In lieu of other authorized educational programs to which the pupil may be assigned, such school, class, or program may be offered as a community-centered classroom and may include experiences for the pupil as an observer or aide in governmental functions, as an on-the-job trainee, and as a participant in specialized tutorial experiences or individually prescribed educational and counseling programs. Such programs shall include an individualized learning program to enable the pupil to continue academic work for credit toward graduation and shall qualify for state apportionment based on average daily attendance for only those hours in courses which earn credit for graduation and which conform to the provisions of Section 46300.

At the conclusion of the designated period during which an expulsion action is suspended, the governing board shall: (1) reinstate a pupil who has satisfactorily participated in a school, class, or program to which such pupil has been assigned as a condition of the suspended action and permit the pupil to return to the school of former attendance or voluntarily to attend other programs offered by the district; or (2) if a pupil's conduct has been unsatisfactory, enforce the expulsion action previously voted by the board.

If the pupil is reinstated, the board may also take action to expunge the record of the expulsion action.

48908. The chief administrative employee at a school shall, prior to the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the student which may be violative of Section 245 of the Penal Code.

48909. Any minor whose willful misconduct results in injury or death to any student or any person employed by or performing volunteer services for a school district or who willfully cuts, defaces,

or otherwise injures in any way any property, real or personal, belonging to a school district is liable to suspension or expulsion, and the parent or guardian of an unemancipated minor shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed two thousand dollars (\$2,000). The parent or guardian shall also be liable for the amount of any reward not exceeding two thousand dollars (\$2,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district for all property belonging to the school district loaned to the minor and not returned upon demand of an employee of the district authorized to make the demand.

48910. No pupil shall be suspended from an elementary school for more than two consecutive weeks.

No pupil shall be suspended from a secondary school for more than the duration of the current semester. For secondary schools not operated on the basis of a school term regularly divided into semesters, the governing board shall select a date approximating the midpoint of the term for purposes of the preceding sentence. All summer school sessions maintained at a secondary school shall, for purposes of this paragraph, be deemed to constitute a single semester.

On or before the third consecutive schoolday of any given period of suspension, the parent or guardian of the pupil involved shall be asked to attend a meeting with school officials, at which time the causes, the duration, the school policy involved, and other matters pertinent to the suspension, shall be discussed. If the parent or guardian fails to join in such a conference, the school officials shall send him by mail a letter stating the fact that suspension has been implemented and setting forth all other data pertinent to the action.

48911. Notwithstanding the provisions of Section 48910, no student shall be suspended from school for more than 20 days in a school year except he shall first be transferred to and enrolled in either one other regular school for adjustment purposes, an opportunity class in his school of residence, an opportunity school or class, or a continuation education school or class.

In the case of transfer to another regular school for adjustment purposes, additional days of suspension are limited to 10.

In a case where an action is pending in juvenile court in regard to a student, or where expulsion is being processed by the governing board, a superintendent, or other person designated by him in writing, may extend the suspension until such time as the juvenile court or the governing board has rendered a decision in the action.

48912. Whenever a pupil is suspended from school, the parent or guardian shall be notified of such action. Any notification to a pupil's parent or guardian concerning the suspension of the pupil shall be signed by the school principal or his designee.

48913. When a principal or other school official releases a minor pupil of such school to a peace officer for the purpose of removing the minor from the school premises, such school official shall take

immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to such officer, and regarding the place to which the minor is reportedly being taken.

48914. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. Such procedures shall include, but are not necessarily limited to the following:

(a) The pupil and his parent or guardian shall be entitled to a hearing to determine whether the pupil should be expelled.

(b) Written notice of the hearing shall be forwarded to the pupil and his parent or guardian at least 10 days prior to the date of the hearing. Such notice shall include: the date and place of the hearing, a statement of the specific charges upon which the proposed expulsion is based, a copy of all the rules of the district which pertain to discipline adopted pursuant to Section 35291, the opportunity of the pupil or his parent or guardian to appear in person or to employ and be represented by counsel, and the opportunity of the pupil and his parent or guardian to present evidence, oral and documentary.

(c) Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil or his parents or guardian shall, in writing and at least five days prior to the date of the hearing, request that the hearing be a public meeting. If such request is served upon the governing board, the meeting shall be public.

(d) In lieu of conducting an expulsion hearing itself, the governing board of any school district may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing at Section 27720), Part 3, Division 2, Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct such hearing or the governing board may appoint an impartial administrative panel of three or more certificated employees of the district, none of whom shall be on the staff of the school in which the pupil is enrolled. In lieu of the appointment of district employees exclusively, the district may request the services of one or more certificated persons not employed by the district. Such hearing shall not be conducted in conflict with any procedures established in this section. Following such hearing, the hearing officer or administrative panel shall present findings of fact and recommendations to the board. The governing board shall thereafter accept the findings of fact and recommendations if such findings of fact and recommendations call for a rejection of expulsion. The governing board may reject the findings of fact and recommendations if such findings of fact and recommendations call for expulsion. All findings of fact and recommendations shall be based either upon a review of the transcript of the hearing or upon the results of such

supplementary hearing or investigation as the governing board may order.

(e) A record of the hearing shall be made. Such record, may be maintained by any means, including electronic recording, so long as a reasonably accurate written transcription of the proceedings can be made.

(f) Technical rules of evidence shall not apply to such hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The decision of the governing board must be supported by substantial evidence.

(g) Whether a pupil expulsion hearing is conducted in closed or public session, by the governing board or before a hearing officer or administrative panel, the final action shall be taken by the governing board at a public meeting. Written notice of any decision to expel shall be sent to the pupil or parent or guardian and shall be accompanied by notice of the right to appeal such expulsion to the county board of education.

48915. If a pupil is expelled from school, the pupil or the parent or guardian of the pupil may appeal, within 30 days following the decision to expel by the governing board, to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education shall establish rules and regulations governing procedures for expulsion appeals pursuant to this section and not in conflict with Sections 48917 through 48920, including, but not limited to notice of filing such appeal, setting the hearing date, certification to the county board of the record of the proceedings at the district level, hearing procedures, and preservation of a record of the hearing.

48916. Students of the public schools have the right to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges, and other insignia, except that expression which is obscene, libelous, or slanderous according to current legal standards, or which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school, shall be prohibited.

Each governing board of a school district and each county superintendent of schools shall adopt rules and regulations relating to the exercise of free expression by students upon the premises of each school within their respective jurisdictions, which shall include reasonable provisions for the time, place, and manner of conducting such activities.

48917. Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the county board of education shall hear an appeal of an expulsion in executive session unless the pupil or his parent or guardian shall, in writing at least five

days prior to the date of the hearing, request that the hearing be a public meeting. If such request is served upon the county board, the meeting shall be public.

48918. The county board of education shall determine the appeal from a pupil expulsion upon the record of the hearing before the district governing board, together with such applicable documentation or regulations as may be ordered. No evidence other than that contained in the record of the proceedings of the school board may be heard unless a de novo proceeding is granted as provided in Section 48919.

It shall be the responsibility of the appellant to submit a written transcription for review by the county board. The cost of such transcript shall be borne by the appellant except (1) where the appellant certifies that he or she cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both; or (2) in a case in which the county board reverses the decision of the local governing board pursuant to subdivision (b) of Section 48919, the county board shall require that the local board reimburse the appellant for the cost of such transcription. The review by the county board of the decision of the governing board shall be limited to the following questions:

(a) Whether the governing board has proceeded without or in excess of its jurisdiction.

(b) Whether there was a fair hearing before the governing board.

(c) Whether there was a prejudicial abuse of discretion in the hearing, as such abuse of discretion is described in subdivision (b) of Section 1094.5 of the Code of Civil Procedure.

(d) Whether there is relevant evidence, which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

48919. The decision of the county board shall be limited as follows:

(a) Where the county board finds that relevant evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, or finds that there was otherwise a denial of due process, it may:

(1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending such reconsideration; or, instead,

(2) Grant a hearing de novo upon reasonable notice thereof to the parent or guardian of the pupil and to the governing board. Such hearing shall be conducted in conformance with the procedures set forth in Section 48914.

(b) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the record of the pupil and the records of the district of any references

to the expulsion action and such expulsion shall be deemed not to have occurred.

48920. The decision of the county board of education shall be final and binding upon the pupil and the parent or guardian of the pupil, and upon the governing board of the school district. The final order of the county board shall be in writing and copies thereof shall be delivered to the pupil and the parent or guardian and to the governing board by personal service or by certified mail. The order shall become final when rendered.

48921. All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

## Article 2. Student Organizations

48930. Any group of students may organize a student body association within the public schools with the approval and subject to the control and regulation of the governing board of the school district. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the public school officials. Any student body organization may be granted the use of school premises and properties without charge subject to such regulations as may be established by the governing board of the school district.

48931. The governing board of any school district may authorize any organization composed entirely of pupils attending the schools of the district to maintain such activities as may be approved by the governing board. The governing board of any school district may authorize student organizations to sell food on school premises, subject to policy and regulations of the State Board of Education. The State Board of Education shall develop policy and regulations for the sale of food by student organizations in kindergarten and grades 1 through 12 which shall insure optimum participation in the school district's nonprofit food service programs and shall be in consideration of all programs approved by the governing board of any school district. Such policy and regulations shall be effective January 1, 1976.

Nothing in this section shall be construed as exempting from the California Restaurant Act, food sales which are authorized pursuant to this section and which would otherwise be subject to the California Restaurant Act.

48932. The governing board of any school district may authorize any organization composed entirely of pupils attending the schools of the district to maintain such activities, including fund-raising activities, as may be approved by the governing board.

The governing board of any school district may, by resolution, authorize any student body organization to conduct fund-raising activities on school property during school hours provided that the

governing board has determined that such activities will not interfere with the normal conduct of the schools.

48933. The funds of any student body organization established in the public schools of any school district shall, subject to approval of the governing board of the school district, be deposited or invested in one or more of the following ways:

(a) Deposits in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of United States savings bonds (Series F and G) as authorized for investment by subdivision (a) of Section 16430 of the Government Code.

(d) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union in this state, organized under the provisions of Division 5 (commencing with Section 14000) of the Financial Code or the statutes of the United States relating to credit unions insured by the administrator of the National Credit Union Administration or a comparable agency as provided by a state government.

The funds shall be expended subject to such procedure as may be established by the student body organization subject to the approval of each of the following three persons which shall be obtained each time before any of such funds may be expended: an employee or official of the school district designated by the governing board, the certificated employee who is the designated adviser of the particular student body organization, and a representative of the particular student body organization.

48934. The funds of a student body organization established in the public schools for kindergarten and grades 1 to 6, inclusive, of any school district maintaining kindergarten and grades 1 to 6, inclusive, may be used to finance activities for noninstructional periods or to augment or to enrich the programs provided by the district.

48936. In addition to deposit or investment pursuant to Section 48933, the funds of a student body organization may be loaned or invested in any of the following ways:

(a) Loans, with or without interest, to any student body organization established in another school of the district for a period not to exceed three years.

(b) Invest money in permanent improvements to any school district property including, but not limited to, buildings, automobile parking facilities, gymnasiums, swimming pools, stadia and playing fields, where such facilities, or portions thereof, are used for conducting student extracurricular activities or student spectator sports, or when such improvements are for the benefit of the student body. Such investment shall be made on condition that the principal

amount of the investment plus a reasonable amount of interest thereon shall be returned to the student body organization as provided herein. Any school district approving such an investment shall establish a special fund in which moneys derived from the rental of school district property to student body organizations shall be deposited. Moneys shall be returned to the student body organization as contemplated by this section exclusively from such special fund and only to the extent that there are moneys in such special fund. Whenever there are no outstanding obligations against the special fund, all moneys therein may be transferred to the general fund of the school district by action of the local governing board.

Two or more student body organizations of the same school district may join together in making such investments in the same manner as is authorized herein for a single student body. Nothing herein shall be construed so as to limit the discretion of the local governing board in charging rental for use of school district property by student body organizations as provided in Section 48930.

48937. The governing board of any school district shall provide for the supervision of all funds raised by any student body or student organization using the name of the school.

The cost of supervision may constitute a proper charge against the funds of the district.

The governing board of a school district may also provide for a continuing audit of student body funds with school district personnel.

48938. In schools or classes for adults, regional occupational centers or programs, or in elementary schools in which the student body is not organized, the governing board may appoint an employee or official to act as trustee for student body funds and to receive said funds in accordance with procedures established by the board. These funds shall be deposited in a bank approved by the board and shall be expended subject to the approval of said appointed employee or official and also subject to such procedure as may be established by the board.

#### Article 4. Notification of Parent or Guardian

48980. At the beginning of the first semester or quarter of the regular school term the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right of the parent or guardian under Sections 46014, 49403, 49423, 49451, 49472, 51240, and 51550.

48981. The notice shall be sent at the time of registration for the first semester or quarter of the regular school term. The notice may be sent by regular mail or by any other method normally used to communicate with the parents or guardians in writing.

48982. The notice shall be signed by the parent or guardian and returned to the school. Signature of the notice is an acknowledgment by the parent or guardian that he has been informed of his rights but

does not indicate that consent to participate in any particular program has either been given or withheld.

48983. If any activity covered by the sections set forth in Section 48980 will be undertaken by the school during the forthcoming school term, the notice shall state that fact and shall also state the approximate date upon which any of such activities will occur.

48984. No school district shall undertake any activity covered by the sections set forth in Section 48980 with respect to any particular pupil unless the parent or guardian has been informed of such action pursuant to this article or has received separate special notification.

#### Article 5. Prohibition of Corporal Punishment

49000. The governing board of any school district may adopt rules and regulations authorizing teachers, principals, and other certificated personnel to administer reasonable corporal or other punishment to pupils when such action is deemed an appropriate corrective measure except and to the extent that such action is permissible as provided in Section 49001.

49001. (a) Corporal punishment shall not be administered to a pupil without the prior written approval of the pupil's parent or guardian. The written approval shall be valid for the school year in which it is submitted but may be withdrawn by the parent or guardian at any time.

(b) If a school district has adopted a policy of corporal punishment pursuant to Section 49000, at the beginning of the first semester or quarter of the regular school term the governing board of each such school district shall notify the parent or guardian in a manner similar to that provided pursuant to Section 48980 that corporal punishment shall not be administered to a pupil without the prior written approval of the pupil's parent or guardian.

#### Article 6. Athletic Programs

49020. It is the intent of the Legislature that opportunities for participation in interschool athletic programs in public high schools of the state be provided on as equal a basis as is practicable to male and female students. The costs of providing these equal opportunities may vary according to the type of sports contained within the respective male and female athletic programs. Additional sources of revenue should be determined to provide for these equal opportunity programs.

49021. It is the intent of the Legislature that opportunities for participation in athletics be provided on an equitable basis to all students.

It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports.

49022. Insofar as practicable, in apportioning public funds school district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs.

49023. Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a school district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

#### Article 7. Registering to Vote

49040. The last two full weeks in April and the last two full weeks in September shall be known as "high school voter weeks," during which time deputy registrars of voters shall be allowed to register students and school personnel on any high school campus in areas designated by the school administration, which are reasonably accessible to all students.

### CHAPTER 6.5. PUPIL RECORDS

#### Article 1. Legislative Intent

49060. It is the intent of the Legislature to resolve potential conflicts between California law and the provisions of Public Law 93-380 regarding parental access to, and the confidentiality of, pupil records in order to insure the continuance of federal education funds to public educational institutions within the state, and to revise generally and update the law relating to such records.

This chapter shall have no effect regarding public community colleges, other public or private institutions of higher education, other governmental or private agencies which receive federal education funds unless described herein, or, except for Sections 49068 and 49069 and subdivision (b) (5) of Section 49076, private schools.

The provisions of this chapter shall prevail over the provisions of Section 12400 of this code and Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code to the extent that they may pertain to access to pupil records.

#### Article 2. Definitions

49061. As used in this chapter:

- (a) "Parent" means a natural parent, an adopted parent, or legal

guardian. If parents are divorced or legally separated, only the parent having legal custody of the pupil may consent to release records to others pursuant to Section 49075, provided, however, that either parent may grant consent if both parents have notified, in writing, the school or school district that such an agreement has been made. Whenever a pupil has attained the age of 18 years or is attending an institution of postsecondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil.

(b) "Pupil record" means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school district or required to be maintained by an employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Pupil record" shall not include informal notes related to a pupil compiled by a school officer or employee which remains in the sole possession of the maker and is not accessible or revealed to any other person.

(c) "Directory information" means one or more of the following items: student's name, address, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.

(d) "School district" means any school district maintaining any of grades kindergarten through 12, any public school providing instruction in any of grades kindergarten through 12, the office of the county superintendent of schools, or any special school operated by the Department of Education.

(e) "Access" means a personal inspection and review of a record or an accurate copy of a record, or an oral description or communication of a record or an accurate copy of a record, or a request to release a copy of any record.

### Article 3. General Provisions

49062. School districts shall establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education. Such regulations shall establish state policy as to what items of information shall be placed into pupil records and what information is appropriate to be compiled by individual school officers or employees under the exception to pupil records provided in subdivision (b) of Section 49061. No pupil records shall be destroyed except pursuant to such regulations or as provided in subdivisions (b) and (c) of Section 49070.

49063. School districts shall notify parents of their rights under this chapter upon the date of the pupil's initial enrollment, and thereafter at the same time as notice is issued pursuant to Section

49079. The notice shall be, insofar as is practicable, in the home language of the pupil. The notice shall take a form which reasonably notifies parents of the availability of the following specific information:

(a) The types of pupil records and information contained therein which are directly related to students and maintained by the institution.

(b) The name and position of the official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have such access.

(c) The policies of the institution for reviewing and expunging those records.

(d) The right of the parent to access to pupil records.

(e) The procedures for challenging the content of pupil records.

(f) The cost if any which will be charged to the parent for reproducing copies of records.

(g) The categories of information which the institution has designated as directory information pursuant to Section 49073 and the parties to whom such information will be released unless the parent objects.

(h) Any other rights and requirements set forth in this chapter.

49064. A log or record shall be maintained for each pupil's record which lists all persons or organizations requesting or receiving information from the record excepting school personnel and the reasons therefor. The log shall be open to inspection only by a parent and the school official or his designee responsible for the maintenance of pupil records.

49065. Any school district may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any pupil record; provided, however, that no charge shall be made for furnishing (1) up to two transcripts of former pupils' records or (2) up to two verifications of various records of former pupils.

49066. (a) When grades are given for any course of instruction taught in a school district, the grade given to each pupil shall be the grade determined by the teacher of the course and the determination of the pupil's grade by the teacher, in the absence of mistake, fraud, bad faith, or incompetency, shall be final.

(b) No grade of a pupil participating in a physical education class, however, may be adversely affected due to the fact that the pupil does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the pupil.

49067. The governing board of each school district shall prescribe regulations requiring the evaluation of each pupil's achievement for each marking period and requiring a conference with, or a written report to, the parent of each pupil whenever it becomes evident to the teacher that the pupil is in danger of failing a course. The refusal of the parent to attend the conference, or to respond to the written report, shall not preclude failing the pupil at the end of the grading period.

Notwithstanding the provisions of subdivision (a) of Section 49061, the provisions of this section shall apply to the parent of any pupil without regard to the age of the pupil.

49068. Whenever a pupil transfers from one school district to another or to a private school, or transfers from a private school to a school district within the state, the pupil's permanent enrollment and scholarship record or a copy thereof shall be transferred by the former district or private school upon a request from the district or private school where the pupil intends to enroll. Any school district requesting such a transfer of a record shall notify the parent of his right to receive a copy of the record and a right to a hearing to challenge the content of the record. The State Board of Education is hereby authorized to adopt rules and regulations concerning the transfer of records.

#### Article 4. Rights of Parents

49069. Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children which are maintained by school districts or private schools. The editing or withholding of any such records is prohibited.

Each school district shall adopt procedures for the granting of requests by parents to inspect and review records during regular school hours, provided that access shall be granted no later than five days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the providing of qualified certificated personnel to interpret records where appropriate.

49070. Following an inspection and review of a pupil's records, the parent of a pupil or former pupil of a school district may challenge the content of any pupil record.

(a) The parent of a pupil may file a written request with the superintendent of the district to remove any information recorded in the written records concerning his child which he alleges to be: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the superintendent or his designee shall meet with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

If the superintendent sustains the allegations, he shall order the removal and destruction of the information.

If the superintendent denies the allegations and refuses to order the removal of the information, the parent may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) Within 30 days of receipt of such an appeal, the governing

board shall, in closed session with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

If the governing board sustains the allegations, it shall order the superintendent to immediately remove and destroy the information from the written records of the pupil.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the parent, or if the parent accepts an unfavorable decision by the district superintendent, the parent shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the pupil's school record until such time as the information objected to is removed.

49071. (a) To assist in making determinations pursuant to Section 49070, a district superintendent or governing board may convene a hearing panel composed of the following persons, provided that the parent has given written consent to release information from the relevant pupil's records to the members of the panel so convened:

(1) The principal of a public school other than the public school at which the record is on file.

(2) A certificated employee appointed by the chairman of the certificated employee council of the district, or, if no such council exists, a certificated employee appointed by the parent.

(3) A parent appointed by the superintendent or by the governing board of the district, depending upon who convenes the panel.

(b) The persons appointed pursuant to paragraphs (2) and (3) of subdivision (a) shall, if possible, not be acquainted with the pupil, his parent or guardian, or the certificated employee who recorded the information, except when the parent or guardian appoints the person pursuant to paragraph (2).

(c) The principal appointed to the hearing panel shall serve as its chairman.

(d) The hearing panel shall, in closed session, hear the objections to the information of the parent and the testimony of the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district.

The hearing panel shall be provided with verbatim copies of the information which is the subject of the controversy.

Written findings shall be made setting forth the facts and decisions of the panel, and such findings shall be forwarded to the superintendent or the governing board, depending upon who convened the panel.

The proceedings of the hearing shall not be disclosed or discussed by panel members except in their official capacities.

49072. Whenever there is included in any pupil record information concerning any disciplinary action taken by school district personnel in connection with the pupil, the school district maintaining such record or records shall allow the pupil's parent to include in such pupil record a written statement or response concerning the disciplinary action.

#### Article 5. Privacy of Pupil Records

49073. School districts shall adopt a policy identifying those categories of directory information as defined in subdivision (c) of Section 49061 which may be released. The district shall determine which officials or organizations may receive directory information, provided, however, that no information may be released to a private profitmaking entity other than employers, prospective employers and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations. The names and addresses of pupils enrolled in grade 12 or who have terminated enrollment prior to graduation may be provided to a private school or college operating under the provisions of Chapter 3 (commencing with Section 94300) of Part 59 of Division 10; provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars (\$2,500), and, in addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information. Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of pupils.

Directory information may be released according to local policy as to any pupil or former pupil, provided that notice is given at least on an annual basis of the categories of information which the school plans to release and of the recipients. No directory information shall be released regarding any pupil when a parent has notified the school district that such information shall not be released.

49074. Nothing in this chapter shall preclude a school district from providing, in its discretion, statistical data from which no pupil may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interests of pupils.

49075. A school district may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party to whom the records may be released. The recipient must be notified

that the transmission of the information to others is prohibited. The consent notice shall be permanently kept with the record file.

49076. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access shall be permitted to the following:

(1) School officials and employees of the district and members of a school attendance review board appointed pursuant to Section 48321, provided that any such person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Federal education officials, the United States Office for Civil Rights, the Superintendent of Public Instruction, or the county superintendent of schools, or their respective designees, where such information is necessary to audit or evaluate a state or federally funded program or pursuant to a federal or state law.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law.

(5) Parents of an 18-year-old pupil who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests such access.

(b) School districts may release information from education records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid.

(3) Accrediting associations.

(4) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(5) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. Such information shall be in addition to the pupil's permanent enrollment and scholarship record transferred pursuant to Section 49068.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any

information obtained from such records by any other person, persons, agency, or organization without the written consent of the pupil's parent; provided, however, that this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have an equal legitimate interest in the information

49077. Information concerning a student shall be furnished in compliance with a court order. The parent and the pupil shall be notified in advance of such compliance by the school employee who complies and releases the information if lawfully possible within the requirements of the judicial order.

49078. The service of a subpoena upon a public school employee solely for the purpose of causing him to produce a school record pertaining to any pupil may be complied with by such employee, in lieu of personal appearance as a witness in the proceeding, by submitting to the court, or other agency issuing the subpoena, at the time and place required by the subpoena, a copy of such record, accompanied by an affidavit certifying that such copy is a true copy of the original record on file in the school or school office. The copy of the record shall be in the form of a photostat, microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

## CHAPTER 7. EMPLOYMENT OF MINORS

### Article 1. Employment and Attendance

49100. No minor having a permit to work and no minor under 18 years of age, who is otherwise required by law to attend school, shall be out of school and unemployed for a period longer than 10 consecutive days while the public schools are in session, but shall enroll and attend school.

### Article 2. Permits to Work

49110. The superintendent of any school district in which any minor resides, or a person authorized by him in writing, may issue to certain minors permits to work. Where the minor resides in a portion of a county not under the jurisdiction of the superintendent of any school district, the permit to work shall be issued by the superintendent of schools of the county or by a person authorized by him, in writing. No permit to work shall be issued until the written request therefor from the parent or guardian has been filed with the issuing authority.

49111. A permit to work may be issued to any minor over the age of 12 years and under the age of 18 years to be employed on a regular school holiday, and during the regular vacation of the public school and during the period of a specified occasional public school vacation

in any of the establishments or occupations not otherwise prohibited by law.

49112. A permit to work may be issued to a minor under the age of 18 years and over the age of 14 years to work outside of school hours for a period of time not to exceed four hours in any day in which he is required by law to attend school if he has completed the equivalent of the seventh grade of a public school course.

49113. A permit to work may be issued to a minor who is under the age of 18 years and over the age of 14 years who is regularly enrolled in a high school or community college or who has been assigned to a vocational course in a place of employment, and who will work part time as a properly enrolled pupil in a work experience education course that meets all the requirements of such course as provided in Sections 51760 to 51769, inclusive.

49114. The person authorized to issue permits to work or to employ may issue to any minor a certificate of age when the minor accompanied by his parent, guardian, or other person in control or charge of the minor, presents to the authority, the evidence of age specified in this chapter. The certificate of age shall serve as a permit to employ a minor who is not by law required to attend school, and who is otherwise required to hold a permit to work.

49115. The permit to employ shall contain:

(a) The name, age, birth date, address and phone number of the minor.

(b) The place and hours of compulsory part-time school attendance for the minor, or statement of exemption therefrom, and the hours of compulsory full-time school attendance for the minor, if the permit is issued for outside of school hours.

(c) The maximum number of hours per day and per week the student may work while school is in session.

(d) The minor's social security number.

(e) The signature of the minor and the issuing authority.

(f) The date on which the permit expires.

49116. Except in personnel attendance occupations, as defined in the Industrial Welfare Commission Minimum Wage Order No. 1-74, and school approved work experience and cooperative vocational education programs, no employer shall employ a minor for more than four hours in any day in which such minor is required by law to attend school for 240 minutes or more each schoolday. No employer shall employ any minor under the age of 18 years in any agricultural occupation for more than 20 hours in any schoolweek in which such minor is required by law to attend school for 240 minutes or more each schoolday. Minors 16 and 17 years of age shall not work in any agricultural occupation more than six hours a day they are required to attend school for 240 minutes or more each schoolday. Minors 14 and 15 years of age shall not work in any agricultural occupation more than four hours on a schoolday. Holidays and days school is not in session are not covered by this section. If evidence is shown to the satisfaction of the person issuing the permit that the

schoolwork or the health of the minor is being impaired by the employment, the authority issuing the permit may revoke it.

49117. All permits to work or to employ, all certificates of age, and certificates of health pursuant to this chapter, shall be issued on forms prepared and provided by the Superintendent of Public Instruction. Local school districts authorized to issue permits to work may be authorized by the Superintendent of Public Instruction to produce permits to work.

49118. Permits to work issued during the school year shall expire five days after the opening of the next succeeding school year.

49119. Nothing in this article shall require a minor to obtain a permit to work in order for such minor to participate in horseback riding exhibitions, contests or events specified in paragraph (3) of subdivision (b) of Section 1308 of the Labor Code.

### Article 3. Permits to Work Full Time

49130. A permit to work full time may be issued to a minor under the age of 16 years and over the age of 14 years who holds a diploma of graduation from the prescribed elementary school course. A permit of this class shall be issued only when the parent, or foster parent, or guardian of the minor child presents a sworn statement that the parent or foster parent, or guardian of the minor is incapacitated for labor through illness or injury, or that through the death or desertion of the father of the minor the family is in need of the earnings of the minor and that sufficient aid cannot be secured in any other manner. In no case shall the permit be issued for a period of time to exceed the end of the current school year.

The person issuing the permit shall make a signed statement that he, or a competent person designated by him, has investigated the conditions under which the application for the permit has been made and has found that, in his judgment, the earnings of the minor are necessary for the family to support the minor and that sufficient aid cannot be secured in any other manner. Such minors shall be duly enrolled in a work experience education program.

49131. Notwithstanding Section 49130, 49132, or 49134 or subdivision (d) of Section 49133, a permit to work full time may be issued to a minor over the age of 16 and under the age of 18.

49132. No permit shall be issued until the minor accompanied by his parent or guardian, appears before the person authorized to issue the permit and makes application therefor.

This section shall be applicable only to minors subject to Section 49130.

49133. No permit shall be issued until the issuing authority has received, examined, approved, and filed, the following papers duly executed:

(a) The school record of the minor giving age, grade, and attendance for the current term signed by the principal or teacher.

(b) Evidence of age, such as the school record of enrollment, or

a certificate of birth, or a baptism certificate duly attested, or a passport, or affidavit of the parent, guardian, or custodian of the minor, such as shall convince the officer that the minor is of the age required by law.

(c) The written statement from a prospective employer that work is waiting for the minor and describing the nature of the work.

(d) A certificate signed by a physician appointed by the school board, or by other public medical officer, stating that the minor has been thoroughly examined by him, and, in his opinion, is physically fit to pursue the work specified. No fee shall be charged the minor for the physical certificate.

This section shall be applicable only to minors subject to Section 49130.

49134. The parent, guardian, or custodian accompanying the minor shall make oath that his statement of the name, address, birthplace, and age of the minor as entered upon the application for the permit to work are true and correct to the best of his knowledge and belief.

This section shall be applicable only to minors subject to Section 49130.

49135. The authority issuing any permit to work full time shall immediately notify, in writing, the person in charge of the organization and maintenance of part-time continuation classes of the place of the minor's prospective employment, and the parent or guardian of the minor shall send the minor to the classes designated.

#### Article 4. Exceptions

49140. Every owner, tenant, or operator of a farm employing thereon as agricultural labor any parent or guardian having minor children in his immediate care and custody shall post at a conspicuous place on the property or place of employment where it may be easily read by those employed, a notice stating that minor children are not allowed to work upon the premises unless legally permitted to do so by law and unless permits to work have been secured by the minor children from duly constituted authorities. All such notices shall be printed in both the English and Spanish languages.

49141. In order that children may be disciplined and trained in habits of work and industry by their parents, guardians, or other persons standing in the place of parents, nothing in this chapter shall require a permit to work to be issued to any minor or require a permit to employ to be issued to the parent or guardian when the work or intended work to be performed by the minor is for or under the control of his parent or guardian and is performed upon or in connection with the premises owned, operated, or controlled by the parent or guardian. Nothing in this section shall be held to affect existing provisions of law which require permits to work to be issued to minors employed in manufacturing, mercantile, or similar

commercial enterprises by their parents or guardians, or to do work which is otherwise forbidden by Section 1294, 1296, or 1308.5 of the Labor Code. All other provisions of law relating to compulsory education shall be effective as to the minor.

#### Article 5. Compliance

49150. An annual report of all permits to work issued during the year shall be made by the issuing authority to the county or city and county superintendents of schools. The reports shall be upon forms prepared and provided by the Superintendent of Public Instruction. The superintendent of schools of each county or city and county shall include in his annual report to the Superintendent of Public Instruction a summary of all such reports.

49151. Nothing in this chapter shall be construed to repeal or in any way modify the provisions of Sections 1298, 1390, 1394, 1396, and 1397 of the Labor Code.

#### Article 6. Duties of Employer

49160. No person, firm or corporation shall employ, suffer, or permit any minor under the age of 18 years to work in or in connection with any establishment or occupation except as provided in Section 49151 without a permit to employ, issued by the proper educational officers in accordance with law.

49161. Every person, firm, corporation, or agent or officer of a firm or corporation, employing minors under the age of 18 years shall keep on file all permits to employ minors under the age of 18 years during the term of the employment.

49162. The employer of any minor subject to this chapter shall send to the officer authorized to issue the permit to work a written notification of intent to employ a minor. The form of the intent to employ a minor shall be prescribed by the Department of Education and shall be furnished to the employer by the officer.

49163. The notification of intent to employ a minor shall contain:

(a) The name, address, phone number, and social security number of the minor.

(b) The name, address, phone number, and supervisor at the minor's place of employment.

(c) The kind of work the minor will perform.

(d) The maximum number of hours per day and per week the student will be expected to work for the employer.

(e) The signatures of the parent or guardian, of the minor, and of the employer.

49164. Permits to work and to employ and certificates of age shall always be open to inspection by supervisors of attendance, probation officers, designees of the Labor Commissioner, and by officers of the Superintendent of Public Instruction. Every permit to work or to employ and every certificate of age shall be subject to cancellation

at any time by the Superintendent of Public Instruction, the Labor Commissioner, or by the person issuing the permit or certificate whenever any person authorized to inspect such permits and certificates finds that the conditions for the legal issuance of the permit or certificate of age do not exist or did not exist at the time the permit or certificate was issued. A permit to work shall be revoked by the issuing authority when he is satisfied that the employment of the minor is impairing the health or education of the minor, or that any provision or condition of the permit is being violated, or that the minor is performing work in violation of any provision of law.

49165. Nothing in this article shall require a person to obtain a permit to employ in order for a minor to participate in horseback riding exhibitions, contests or events specified in paragraph (3) of subdivision (b) of Section 1308 of the Labor Code.

#### Article 7. Violations

49180. If upon inspection or investigation a supervisor of attendance, probation officer, or officer of the Superintendent of Public Instruction determines that a person is in violation of any statutory provision or rule or regulation relating to the employment of minors, he shall report the violation to the Labor Commissioner. Such report shall be made within 48 hours, and shall be in writing, setting forth the fact that he has good cause to believe that such statutory provision or rule or regulation is being violated by the person. Upon receipt of the report of violation, the Labor Commissioner shall make an inspection or investigation of the violation and shall take such action as is provided in Section 1287 of the Labor Code.

49181. Failure to produce a permit to work is prima facie evidence of the illegal employment of any minor whose permit to work is not produced.

49182. Any person, firm, corporation, or agent or officer of a firm or corporation, that violates or omits to comply with any of the provisions of this chapter, or that employs or suffers any minor under 18 years of age who is too old to be subject to compulsory full-time school attendance to be employed in violation thereof, is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50), nor more than two hundred dollars (\$200), or by imprisonment in the county jail for not more than 60 days, or by both such fine and imprisonment for each and every offense.

49183. Every person authorized to sign any certificate of age or any permit to work or to employ which allows employment of any minor during or outside school hours, during a vacation of the public schools, or upon the regular school holiday who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and is punishable by a fine of not less than five dollars (\$5) or more than fifty dollars (\$50), or imprisonment for not more than 30 days, or by

both such fine and imprisonment.

## CHAPTER 8. PUPIL SAFETY

### Article 1. School Safety Patrols

49300. The governing board of any school district may, subject to such rules and regulations as shall be adopted by the State Board of Education, establish and maintain a school safety patrol in any of the schools of the district for the purpose of assisting school pupils in safely crossing streets and highways adjacent to or near such school.

49301. A school safety patrol established in any school as herein provided shall be composed of pupils attending in such school. The members of the patrol shall be under the supervision and control of a qualified employee of the district designated by the board, except as otherwise provided in Sections 1299, 49472 to 49473, inclusive, 49510 to 49517, inclusive, Article 1 (commencing with Section 49400) to Article 5 (commencing with Section 49470), inclusive, Article 8 (commencing with Section 49500) of Chapter 9 of this part, and this article. The provisions of this section shall not, however, be deemed to require the physical presence of such employee at any particular street or highway location where any such school safety patrol is functioning.

49302. The pupils who serve as members of a school safety patrol shall be designated by the principal of the school in which the patrol is established, but no pupil shall be designated to serve on any patrol unless the pupil and the person having legal custody of such pupil consent, in writing, thereto. Upon the revocation, in writing, of the consent of either such pupil or such person, the pupil shall cease to be a member of the patrol.

49303. The State Board of Education is hereby authorized to adopt all rules and regulations necessary to effect the purposes of this act, and the governing board of each school district is hereby authorized to adopt additional rules and regulations not inconsistent therewith governing school safety patrols established under its jurisdiction.

49304. The members of a school safety patrol established hereunder shall be authorized and required only to give traffic signals and directions in order to assist school pupils in safely crossing streets and highways.

49305. The chief of police in each city, and the Commissioner of the California Highway Patrol in unincorporated territory, may upon the request of the governing board of any school district, cooperate in the establishment, supervision and control of a school safety patrol to such extent as may be agreed upon.

49306. The governing board of a school district which authorizes the establishment of a school safety patrol may provide for adequate hospital and medical attention to care for any injury or disability that may be suffered by any pupil while performing any act within and

arising out of his duties as a member of a school safety patrol provided, however, that no pupil shall be compelled to accept such services if his parent or guardian objects.

49307. Any person who shall disregard any traffic signal or direction given by a member of a school safety patrol, shall be guilty of a misdemeanor, and subject to the penalties provided in Section 42001 of the Vehicle Code.

## Article 2. Basic Work Station

49320. A basic work station in industrial education is defined as an assigned location where a student normally spends the majority of his class time performing the operational functions necessary to meet the performance objectives and goals of the course, including industrial safety education. For these purposes, the number of students in any industrial education facility or laboratory in elementary and secondary programs shall not exceed the number of basic work stations designed for the number of students assigned, as determined by the local governing board of the school district.

## CHAPTER 9. PUPIL AND PERSONNEL HEALTH

### Article 1. General Powers—School Boards

49400. The governing board of any school district shall give diligent care to the health and physical development of pupils, and may employ properly certified persons for the work.

49401. The governing board of any school district may provide for proper health supervision of the school buildings and pupils enrolled in the public schools under its jurisdiction.

49402. Contracts between any city, county, or local health district and the governing board of any school district located wholly or partially within such city, county, or local health district for the performance by the health officers or other employees of the health department of such city, county, or local health district of any or all of the functions and duties set forth in this chapter, Section 49404, and in Article 1 (commencing with Section 49300) of Chapter 8 of this part relating to health supervision of school buildings and pupils are hereby authorized.

In any such contracts the consideration shall be such as may be agreed upon by the governing board and the city, county, or local health district and shall be paid by the governing board at such times as shall be specified in the contract. This section shall not apply to any district which is under the control of a governing board which has under its control a district or districts having a total average daily attendance of 100,000 or more pupils.

49403. (a) Anything to the contrary notwithstanding, the governing board of any school district shall cooperate with the local health officer in measures necessary for the prevention and control

of communicable diseases in school age children. For that purpose the board may use any funds, property, and personnel of the district, and may permit any person licensed as a physician and surgeon, or any person licensed as a registered nurse acting under the direction of a supervising physician and surgeon as provided in subdivisions (b) and (c), to administer an immunizing agent to any pupil whose parents have consented in writing to the administration of such immunizing agent.

(b) A registered nurse, acting under the direction of a supervising physician and surgeon, may perform immunization techniques within the course of a school immunization program provided that the administration of an immunizing agent is upon the standing orders of a supervising physician and surgeon and in accordance with such written regulations as the State Department of Health may adopt pursuant to Section 303.5 of the Health and Safety Code.

"Supervising physician and surgeon," as used herein, means the physician and surgeon of the local health department or the physician and surgeon of the school district that is directing the school immunization program.

(c) While nothing in this section shall be construed to require the physical presence of the supervising physician and surgeon, the supervising physician and surgeon under whose direction the registered nurse is acting shall require such nurse to:

(1) Satisfactorily demonstrate competence in the administration of immunizing agents, including knowledge of all indications and contraindications for the administration of such agents, and in the recognition and treatment of any emergency reactions to such agents which constitute a danger to the health or life of the person receiving the immunization; and

(2) Possess such medications and equipment as required, in the medical judgment of the supervising physician and surgeon, to treat any emergency conditions and reactions caused by the immunizing agents and which constitute a danger to the health or life of the person receiving the immunization, and to demonstrate the ability to administer such medications and to utilize such equipment as necessary.

49404. The governing board of any school district is hereby authorized to expend funds under its jurisdiction for the purpose of carrying out the provisions of this chapter and Section 49404, Article 1 (commencing with Section 32000) to Article 4 (commencing with Section 32040) of Chapter 1 of Part 19 of Division 1, of Title 1, Chapter 8 (commencing with Section 49300) Article 6 (commencing with Section 49480) of Chapter 9 of this part, and the provisions of Chapter 8 (commencing with Section 3400) of Division 4 of the Health and Safety Code.

49405. The control of smallpox is under the direction of the State Board of Health, and no rule or regulation on the subject of vaccination shall be adopted by school or local health authorities.

49406. (a) Except as provided in subdivision (h), no person shall

be initially employed by a school district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an X-ray of the lungs, or an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) Thereafter all employees shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer.

(c) After such examination, each employee shall cause to be on file with the district superintendent of schools a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of education may require, by rule, that all such certificates be filed in the office of the county superintendent of schools or shall require such files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within such county so petition the county board of education, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate" as used herein means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board from establishing a rule requiring a more extensive physical examination than required by this section but such rule shall provide for reimbursement on the same basis as hereinafter required.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse such person in a like manner hereinafter prescribed for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for such examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board this section shall not apply to those employees not requiring certification qualifications

who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

The governing board may, however, require such examination and may as a contract condition require the examination of persons employed for construction or repair work if the board believes the presence of such persons in and around school premises would constitute a health hazard to pupils.

(g) If the governing board of a school district determines by resolution, after hearing, that the health of pupils in the district would not be jeopardized thereby, the provisions of this section shall not apply to any employee of the district who files an affidavit stating that he adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his knowledge and belief he is free from active tuberculosis. If at any time there should be probable cause to believe that such affiant is afflicted with active tuberculosis, he may be excluded from service until the governing board of the employing district is satisfied that he is not so afflicted.

(h) A person who transfers his employment from one school or school district to another shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

A person who transfers his employment from a private or parochial elementary school, secondary school, or nursery school to a school or school district subject to this section shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

49407. Notwithstanding any provision of any law, no school district, officer of any school district, school principal, physician, or hospital treating any child enrolled in any school in any district shall be held liable for the reasonable treatment of a child without the consent of a parent or guardian of the child when the child is ill or injured during regular school hours, requires reasonable medical treatment, and the parent or guardian cannot be reached, unless the parent or guardian has previously filed with the school district a written objection to any medical treatment other than first aid.

49408. For the protection of a pupil's health and welfare, the governing board of a school district may require the parent or legal guardian of a pupil to keep current at the pupil's school of attendance, emergency information including the home address and telephone number, business address and telephone number of the

parents or guardian, and the name, address and telephone number of a relative or friend who is authorized to care for the pupil in any emergency situation if the parent or legal guardian cannot be reached.

## Article 2. Employment of Medical Personnel

49420. The governing board of any school district may appoint a supervisor of health, or supervisors of health, consisting of a physician, psychologist, psychiatrist, nurse, oculist, dentist, optometrist, otologist, podiatrist, audiologist, dental hygienist, or any one or more of such persons. In case of the appointment of more than one supervisor of health the supervisors may, in the discretion of the board, all be chosen from any one of the classes designated.

The board may also appoint such number of school audiometrists, physical therapists, and occupational therapists as it may deem necessary to work under the direction of the supervisor of health and may provide for the compensation of such employees. No money set aside for the payment of teachers' salaries or for library purposes shall be used for this purpose.

49421. The governing boards of two or more school districts in the same county may join in the employment of a supervisor of health, or supervisors of health, and may use funds not set aside for the payment of teachers' salaries or for library purposes for the expenses of the work. The boards may employ a nurse or nurses under the direction of a supervisor of health to examine the schools under their jurisdiction.

49422. No physician, psychiatrist, oculist, dentist, dental hygienist, optometrist, otologist, podiatrist, audiologist, or nurse not employed in such capacity by the State Department of Public Health, shall be, nor shall any other person be, employed or permitted to supervise the health and physical development of pupils unless he holds a services credential with a specialization in health or a valid credential issued prior to the operative date of the amendment to this section enacted at the 1970 Regular Session of the Legislature.

Any psychologist employed pursuant to Section 49403, and this article shall hold a school psychologist credential, a general pupil personnel services credential authorizing service as a school psychologist, a standard designated services credential with a specialization in pupil personnel services authorizing service as a psychologist, or services credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing.

The services credential with a specialization in health authorizing service as a school nurse shall not authorize teaching services unless the individual holds a baccalaureate degree, or its equivalent, and has completed a fifth year of preparation.

No physician employed by a district to perform medical services pursuant to Section 44873, shall be required to hold a credential

issued by the State Board of Education or commission, provided he meets the requirements of Section 44873.

49423. Notwithstanding the provisions of Section 49422, any pupil who is required to take, during the regular school day, medication prescribed for him by a physician, may be assisted by the school nurse or other designated school personnel if the school district receives (1) a written statement from such physician detailing the method, amount, and time schedules by which such medication is to be taken and (2) a written statement from the parent or guardian of the pupil indicating the desire that the school district assist the pupil in the matters set forth in the physician's statement.

49424. A school psychologist is a credentialed professional whose primary objective is the application of scientific principles of learning and behavior to ameliorate school-related problems and to facilitate the learning and development of children in the public schools of California.

To accomplish this objective the school psychologist provides services to children, teachers, parents, community agencies, and the school system itself. These services include:

(a) Consultation with school administrators concerning appropriate learning objectives for children, planning of developmental and remedial programs for pupils in regular and special school programs, and the development of educational experimentation and evaluation.

(b) Consultation with teachers in the development and implementation of classroom methods and procedures designed to facilitate pupil learning and to overcome learning and behavior disorders.

(c) Consultation with parents to assist in understanding the learning and adjustment processes of children.

(d) Consultation with community agencies, such as probation departments, mental health clinics, and welfare departments, concerning pupils who are being served by such community agencies.

(e) Consultation and supervision of pupil personnel services workers.

(f) Psychoeducational assessment and diagnosis of specific learning and behavioral disabilities, including, but not limited to, case study evaluation, recommendations for remediation or placement, and periodic reevaluation of such children.

(g) Psychological counseling of and other therapeutic techniques with children and parents, including parent education.

49425. Notwithstanding the provisions of Section 49422, a licensed physician need not hold a credential if his sole service for a school district or county superintendent of schools is service as a member of a committee whose function is to consider written and oral information and reports concerning the pupil that are available to the committee and, upon the basis of such information and reports, to recommend the admission of the pupil to, or his discharge

from, special schools and classes for exceptional children.

### Article 3. Mental Health

49440. Upon the report of the principal of a school that a pupil shows evidence of impaired mental health and that a mental examination is desirable, the governing body of the school district may, with the written consent of the pupil's parent or guardian provide for the mental examination of said pupil.

The principal shall not be liable for damages or for any civil or criminal penalty for any report made in good faith in carrying out the provisions of this section.

49441. The governing board of any school district shall make such rules for the mental examination, as provided in Section 49440, of the pupils in the public schools under its jurisdiction as will insure proper care of the pupils and proper secrecy in connection with any condition of impaired mental health noted by the supervisor of health or his assistant and as may tend to the correction of such condition, and any such governing board may consult and cooperate with the Department of Mental Hygiene in formulating such rules. The Department of Mental Hygiene shall cooperate to the full extent of its capacities in aiding and assisting school districts in carrying out the duties imposed by this article.

49442. When evidence of impaired mental health has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will cure or correct the condition. Such report must be made on a form prescribed or approved by the Superintendent of Public Instruction and shall not include therein any recommendation suggesting or directing the pupil to a designated individual or class of practitioner for the purpose of curing or correcting any condition referred to in the report.

The provisions of this section do not prevent a supervisor of health from recommending in a written report that the child be taken to a public clinic or diagnostic and treatment center operated by a public hospital or by the state, county, or city department of public health.

49443. Notwithstanding the provisions of any law authorizing or requiring an officer or employee with duties connected with the public schools to provide for or arrange for, or otherwise engage in any activity directed to providing for, the psychological or psychiatric treatment, or both; of a pupil enrolled in a public school, no officer or employee of a school district, nor any county superintendent of schools nor any of his employees, nor any member of a county board of education nor any of its employees shall place, or participate in placing, a pupil enrolled in a public school in any public or private agency, institution, or place, outside of the pupil's school of attendance, for psychological treatment or psychiatric treatment, or both, unless the prior written consent of the parent or

guardian to such placement and treatment is first obtained.

This section does not authorize any officer or employee to administer psychological or psychiatric treatment to a pupil either within the school of the pupil's attendance or at a place outside of such school without the written consent of the parent or guardian.

49444. The governing board of any school district may enter into a contract with a mental health clinic or child guidance clinic for the furnishing to the district by the clinic of mental health services for the pupils of the district. The use of the words "mental health" and "mental health services" in this section does not express or imply legislative intent with regard to other health services. The terms and conditions governing the providing of such services shall be set forth in the contract. No payment shall be made by the district for services performed by persons who do not possess a credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing covering such service, except as provided in Sections 44871 to 44879, inclusive. When the conditions of the contract have been fulfilled, the cost of services rendered pursuant to such contract may be paid from the funds of the district. The governing board of any city, county, or district which maintains a public mental health clinic or child guidance clinic or nonprofit health clinic is authorized to enter such an agreement.

#### Article 4. Physical Examinations

49450. The governing board of any school district shall make such rules for the examination of the pupils in the public schools under its jurisdiction as will insure proper care of the pupils and proper secrecy in connection with any defect noted by the supervisor of health or his assistant and may tend to the correction of the physical defect.

49451. A parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school in which he is enrolled a statement in writing, signed by the parent or guardian, stating that he will not consent to a physical examination of his child. Thereupon the child shall be exempt from any physical examination, but whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist.

49452. The governing board of any school district shall, subject to Section 49451, provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district. The test shall be adequate in nature and shall be given only by duly qualified supervisors of health employed by the district; or by certificated employees of the district or of the county superintendent of schools who possess the qualifications prescribed by the Commission for Teacher Preparation and Licensing; or by contract with an agency duly

authorized to perform such services by the county superintendent of schools of the county in which the district is located, under guidelines established by the State Board of Education; or accredited schools or colleges of optometry, osteopathy, or medicine. The records of the tests shall serve as evidence of the need of the pupils for the educational facilities provided physically handicapped individuals. The equipment necessary to conduct the tests may be purchased or rented by governing boards of school districts. The state, any agency, or political subdivision thereof may sell or rent any such equipment owned by it to the governing board of any school district upon such terms as may be mutually agreeable.

49453. A physician, dentist, or optometrist who holds a valid, unrevoked certificate to practice his profession in this state, may with the approval of the governing board of the school district perform, within the scope of their license, health examinations of schoolchildren upon school premises with the consent of a parent or guardian, and report findings and recommendations of health needs to the school health officer and parent or guardian.

Such persons conducting health examinations need not be employees of the district and shall be exempt from credential requirements as specified in Section 49422.

This section is applicable only to a school district with an average daily attendance in excess of 400,000.

49454. A person employed by a school district in a position requiring certification qualifications who holds a valid special credential authorizing the teaching of lipreading or the teaching of the deaf and hard of hearing or a standard teaching credential with specialized preparation in the area of the deaf and hard of hearing or in the area of the speech and hearing handicapped or who holds a certificate of registration to serve as a school audiometrist issued by the State Board of Public Health may, subject to Section 49451, test the hearing of pupils of the district through the use of an audiometer for the purpose of detecting pupils with impaired hearing.

49455. Upon first enrollment in a California school district of a child at a California elementary school, and at least every third year thereafter until the child has completed the eighth grade, the child's vision shall be appraised by the school nurse or other authorized person under Section 49452. This evaluation shall include tests for visual acuity and color vision; however, color vision shall be appraised once and only on male children, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade. Gross external observation of the child's eyes, visual performance, and perception shall be done by the school nurse and the classroom teacher. The evaluation may be waived, if the child's parents so desire, by their presenting of a certificate from a physician and surgeon or an optometrist setting out the results of a determination of the child's vision, including visual acuity and color vision. The number of children so evaluated and the results of such

evaluations shall be reported by each elementary or unified school district to the Department of Education at the end of each school year, on forms to be provided by the department.

The provisions of this section shall not apply to any child whose parents or guardian file with the principal of the school in which the child is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

49456. (a) When a defect other than a visual defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will cure or correct the defect. Such report, if made in writing, must be made on a form prescribed or approved by the Superintendent of Public Instruction and shall not include therein any recommendation suggesting or directing the pupil to a designated individual for the purpose of curing or correcting any defect referred to in the report.

(b) When a visual defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will correct the defect. Such report, if made in writing, must be made on a form prescribed or approved by the Superintendent of Public Instruction and shall not include therein any recommendation suggesting or directing the pupil to a designated individual or class of practitioner for the purpose of correcting any defect referred to in the report.

(c) The provisions of this section do not prevent a supervisor of health from recommending in a written report that the child be taken to a public clinic or diagnostic and treatment center operated by a public hospital or by the state, county, or city department of public health.

49457. The supervisor of health shall make such reports from time to time as he deems best to the governing board of the school district, or as the board may call for, showing the number of defective children in the schools of the district and the effort made to correct the defects.

#### Article 5. District Medical Services and Insurance

49470. The governing board of any school district or districts may provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for pupils of the district or districts injured while participating in athletic activities under the jurisdiction of, or sponsored or controlled by, the district or districts or the authorities of any school of the district or districts. The cost of the insurance or

membership may be paid, from the funds of the district or districts, or by the insured pupil, his parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only such companies or corporations as are authorized to do business in this state.

49471. If the governing board of any school district maintaining junior high schools or high schools does not provide or make available medical and hospital services for pupils of the district injured while participating in athletic activities, in accordance with Section 49470, the board shall notify, in writing, the parent or guardian of each pupil of the district participating in such athletic activities that the services are not provided or made available by the governing board.

49472. The governing board of any school district or districts which does not employ at least five physicians as full-time supervisors of health, or the equivalent thereof, may provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance or through policies of liability insurance from authorized insurers, for injuries to pupils of the district or districts arising out of accidents occurring while in or on buildings and other premises of the district or districts during the time such pupils are required to be therein or thereon by reason of their attendance upon a regular day school of such district or districts or while being transported by the district or districts to and from school or other place of instruction, or while at any other place as an incident to school-sponsored activities and while being transported to, from and between such places. No pupils shall be compelled to accept such service without his consent, or if a minor without the consent of his parent or guardian. The cost of the insurance or membership may be paid, from the funds of the district or districts, or by the insured pupil, his parent or guardian.

Such insurance may be purchased from, or such membership may be taken in, only such companies or corporations as are authorized to do business in California.

49473. To facilitate the authority referred to in Sections 49470 and 49472 the governing board of the school district or school districts may authorize the distribution by district personnel of such printed matter as may be furnished by the insurer or membership corporation.

49474. The governing board of any school district or districts may provide, or make available, ambulance service, paid for out of school district funds, for pupils, instructors, spectators, and other individuals in attendance at athletic activities under the jurisdiction of, or sponsored or controlled by, the district or districts or the authorities of any school of the district or districts.

### Article 6. Notice to School of Nonepisodic Condition

49480. The parent or legal guardian of any public school pupil on a continuing medication regimen for a nonepisodic condition, shall inform the school nurse or other designated certificated school employee of the medication being taken, the current dosage, and the name of the supervising physician. With the consent of the parent or legal guardian of the pupil, the school nurse may communicate with the physician and may counsel with the school personnel regarding the possible effects of the drug on the child's physical, intellectual, and social behavior, as well as possible behavioral signs and symptoms of adverse side effects, omission, or overdose. The superintendent of each school district shall be responsible for informing parents of all pupils of the requirements of this section.

### Article 7. School Breakfast and Lunch Program

49490. The Legislature finds and declares that hunger and malnutrition among children from low-income families constitute one of the most critical child health problems in the state; that federal programs to meet child nutrition needs are providing nourishing meals to thousands of the state's poverty area children who previously could not participate in school lunch programs; that federal funds allocated for child nutrition to California are inadequate to meet critical needs; that the state and local communities bear a responsibility towards meeting these needs; and that the physical well-being of all of the children of the state is a matter of public concern and expenditures to secure such well-being serves a public purpose.

49491. No amount received by a school district or other public or private nonprofit school pursuant to this article or the National School Lunch Program shall be used to reduce the level of district or school expenditures for any existing program of free or reduced-price meals, unless free or reduced-price lunches are provided for each eligible needy child.

49492. Each school district or other public or private nonprofit school or agency receiving reimbursement pursuant to the provisions of this article shall meet standards adopted by the Superintendent of Public Instruction for the following:

(a) The definition of a "meal" and at what price a given meal may be considered to be a "reduced-price meal."

(b) Standards for the eligibility of children to receive free or reduced-price meals.

(c) Standards for the protection of the identity of children for whom reimbursement is made pursuant to this article.

49493. No allocation or reimbursement of funds shall be made pursuant to this article to any public or private nonprofit school or agency in behalf of any child who resides on the premises of such school or agency.

## Article 8. Meals

49500. The governing board of any school district may provide, without charge or at a reduced price, breakfasts for pupils within the district who are needy. The governing board may provide, without charge or at a reduced price, lunches for pupils who are needy. The governing board of any school district may provide, without charge, lunches for any or all other pupils whether they are needy or not, provided that the governing board has so provided such lunches without charge to all pupils of the district during the 1962-1963 school year. The governing board of any school district may provide, without charge or at a reduced price, other nutrition periods during the schoolday during which foods or beverages, or both, are served to pupils.

For purposes of this article a pupil who is "needy" is one who does not otherwise receive proper nourishment.

As used in this article "school meals" includes breakfasts, lunches, or the serving of foods or beverages, or both, during other nutrition periods, or any combination thereof.

49501. The governing board of any school district may, for purposes of Section 49500, establish rules by which to determine which pupils are needy. For purposes of this article, any pupil within the category of children eligible for aid or services under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code shall be deemed needy.

49502. For the purpose of providing funds with which to obtain school meals for needy pupils and to provide facilities and equipment for providing school meals to needy pupils, the governing board of any school district may levy and collect a district tax over and above the maximum elsewhere specified in this code but not to exceed five cents (\$.05). Not more than 6 percent of such funds may be used for the administrative and clerical costs of conducting such a program.

49503. District funds may also be used for the purchase of school meals for pupils, as provided in Section 49500.

49504. Each official and department of the state having charge of the administering of funds for the relief of indigents may contribute and pay any of the funds subject to his disposal to any school district within the state, to be used by the district for the purchase of school meals for needy pupils. Every county, city and county, and city within the state may pay any of its funds available for the relief of indigents to any school district, within or partly within the county, city and county, and city for this purpose.

## Article 9. Nutrition

49510. This article shall be known and may be cited as the Duffy-Moscone Family Nutrition Education and Services Act of 1970.

49511. It is the intent of this article to establish an ongoing

program to assure that the nutritional requirements of pupils in receipt of public assistance are enhanced by a pervasive program of food supplementation while they are attending school.

It is the intent of the Legislature that the program established by this article shall in fiscal years subsequent to the year in which this article is enacted be funded according to customary budgetary procedures.

49512. The Department of Education, in cooperation with the Department of Social Welfare, shall establish a statewide program to provide nutritious meals at school for pupils. Either or both of such departments may cooperate with and enter into contracts with the United States Departments of Health, Education and Welfare and Agriculture in order to implement the provisions of this article.

The funds shall be allocated to the school districts in such a manner that priority shall be given to providing free meals to the neediest children. Determination with respect to the annual income of any household shall be made solely on the basis of an affidavit executed in such form as the United States Secretary of Agriculture may prescribe by an adult member of such household. The income poverty guidelines to be used for any fiscal year shall be those prescribed by the United States Secretary of Agriculture as of July 1 of each year.

49513. To the extent that school districts have an operational program of school meals for pupils, the program authorized by this article shall be integrated with such existing service.

In order to extend the program to those pupils attending schools which do not operate a school lunch program and are unable or unwilling to provide food required by this article, contracts shall be entered into with nonprofit organizations, other public agencies or proprietary agencies. In making such contracts, special consideration shall be given to utilizing the Business Enterprises Program for the Blind established under Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code. Such contracts shall be negotiated, approved and supervised by the Department of Education and terminated as soon as feasible upon certification by the Department of Education that the local school district or school is able and willing to establish a food service program.

49514. Notwithstanding the provisions of Section 49513, the Department of Education is authorized to approve, in school districts in which the provision of traditional meals under this article is not economically or physically feasible, demonstration projects which examine alternative methods of assuring that minimum nutritional requirements of needy pupils are met by the provision of fortified food supplements.

At least one such demonstration project shall be established which provides a nutritious fortified food supplement in lieu of a traditional meal to pupils qualified for the program. The nutritious fortified food supplement supplied in the demonstration project shall be approved

by the Department of Education, the Department of Public Health, and the participating school district. The Department of Education shall, as soon as significant results of the demonstration project are measurable, submit a report on the demonstration, together with recommendations for future action to the Legislature.

49515. Programs established under this article shall, to the extent feasible and practicable, include provisions for the use of parents of needy pupils in the planning, preparation and serving of meals at school, in order to provide practical experience and training for such parents as part of the educational component of public social services. It is the intent of the Legislature that necessary formal training for such purposes shall, to the maximum extent feasible, be provided under the work incentive programs established under Division 2 (commencing with Section 5000) of the Unemployment Insurance Code.

The use of volunteers in the planning, preparation and serving of school meals and nutritional supplements under this article shall also be encouraged in order to enlist the good will of the community toward the success of this program, and in order to reduce program costs.

49516. In order to encourage the development of a sense of fiscal responsibility among the pupils participating in the program, a nominal cash payment for school meals provided under this article may be required of any such pupil. Such payments shall be related to the income of the pupil's family.

For purposes of this article, a "nominal cash payment" means not less than five cents (\$.05) nor more than twenty cents (\$.20) per meal. The appropriate charge in relation to the income of the pupil's family shall be five cents (\$.05), ten cents (\$.10), fifteen cents (\$.15), or twenty cents (\$.20).

Funds received from payments by participating pupils shall be used to expand the programs under this article.

49517. In order to avoid unnecessary and costly duplication and overlap of activities, the Department of Education may contract with county welfare departments to identify those pupils who are eligible for the program under this article, and to determine the amount of cash payment that may be required of any pupil so eligible under the provisions of Section 49516.

49518. To the extent that available funds are insufficient to provide services under the program established by this article to all pupils defined as eligible, the following priorities for the provision of such services shall be observed by the Department of Education:

(a) First priority for services shall go to pupils within the category of children described in Section 11202 of the Welfare and Institutions Code.

(b) Second priority shall go to pupils eligible for social services only under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, and among such category of pupils the order of priorities shall decline progressively

according to the age of the pupils, with the youngest pupils receiving the highest priority.

49519. Each meal provided under this article shall include an appropriate serving of milk; provided, that the provisions of this section shall not be mandatory in the case of demonstration projects conducted pursuant to Section 49514.

49520. The Department of Education shall, by the 30th day after the Legislature convenes in each year file a detailed report to the Legislature showing the progress made in extending the program of school meals established under this article to needy pupils. The report shall present the total number of pupils in the state who are deemed needy under this article, and shall indicate the number of such pupils who are being served under this or any other program which provides for free or reduced-priced meals at school. The report shall also indicate the number of needy pupils who are not being served by this or any other such program, and shall set forth an analysis of the reasons that these pupils are not being served.

#### Article 10. Child Nutrition Act of 1974

49530. (a) The Legislature finds that (1) the proper nutrition of children is a matter of highest state priority, and (2) there is a demonstrated relationship between the intake of food and good nutrition and the capacity of children to develop and learn, and (3) the teaching of the principles of good nutrition in schools is urgently needed to assist children at all income levels in developing the proper eating habits essential for lifelong good health and productivity.

(b) It is the policy of the State of California that no child shall go hungry at school or a child development program and that schools and child development programs conducted pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 have an obligation to provide for the nutritional needs and nutrition education of all pupils during the schoolday and all children receiving child development services.

49530.5. As used in this article, "child nutrition entity" means any school district, county superintendent of schools, child development program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1, local agency, private school, or parochial school, which qualifies for federal aid under the federal school lunch program or the federal child nutrition program prescribed, respectively, by Chapter 13 (commencing with Section 1751) and Chapter 13A (commencing with Section 1771) of Title 42 of the United States Code.

49531. Any child nutrition entity may apply to the Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in such districts or maintained by such county superintendents of schools, or at such private schools

and parochial schools and to children receiving child development services. The State Board of Education shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity which receives state funds pursuant to this article, shall provide breakfasts and lunches in accordance with state and federal guidelines.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which meets one-third of the daily dietary allowance as established by the National Research Council. Where both breakfast and lunch are provided, they shall, together, provide at least one-half to two-thirds of this recommended daily dietary allowance.

49532. Any child nutrition entity which has inadequate or no food preparation facilities as determined by the Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract with other school districts, county superintendents of schools, public agencies, or nonprofit private agencies for the preparation and delivery of such meals.

49533. A Child Nutrition Advisory Council composed of 11 members, shall be appointed by January 1, 1975, to recommend plans and guidelines for school meal service and nutrition education programs. The members of the council shall be appointed by the State Board of Education and shall include one member of the Department of Education, one school administrator, one school board member, one school food service director, one school food service supervisor or manager, one classroom teacher, one curriculum coordinator, one nutrition education specialist, one lay person, one senior-class high school student, and a qualified consultant specializing in nutrition, education, or health and welfare.

Initial appointments shall be made so that six of the members, including the student representative, serve for one year while the remainder serve for two years. Thereafter, members shall serve for a period of two years, except the student representative, who shall serve for one year. Council members shall serve without pay but shall be reimbursed for authorized travel costs according to established Department of Education procedures.

49534. (a) The Department of Education shall formulate the basic elements of nutrition education programs for child nutrition entities participating in programs established under this article. Such programs shall coordinate classroom instruction with the food service program and shall be of sufficient variety and flexibility to meet the needs of pupils in the total spectrum of education, including early childhood, elementary and secondary schools, special education classes and programs and child development programs.

(b) Nutrition education programs shall be maintained on a project approval basis. The State Board of Education shall establish rules and regulations for nutrition education projects. Such projects shall be approved by the State Board of Education upon

recommendation of the Department of Education. County offices of education may apply for and receive funds on behalf of school districts under their jurisdiction in order to implement projects.

Projects may include, but need not be limited to, innovative ways to coordinate the school meal service program with the nutrition education program; development of community resources for purposes of nutrition education; instructional programs for teachers, parents, food service employees; and training and utilization of paraprofessionals to assist the instructional staff.

49536. Funds allocated pursuant to subdivision (a) of Section 41350 to child nutrition entities for school and child care and development program meals pursuant to this article shall be disbursed on the basis of five cents (\$.05) for each breakfast and five cents (\$.05) for each lunch served.

The Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates established pursuant to this section for the forthcoming fiscal year. Such adjustments shall reflect the changes in the cost of operating a school breakfast and lunch program and shall be made commencing on July 1 of each year. Such adjustment shall be the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this section, the Department of Education shall use the same month for computation of the percentage change in the cost of living after July 1, 1975. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to the provisions of this section.

#### Article 11. Meals for Needy Pupils in Kindergarten and Grades 1 to 12

49550. Notwithstanding any other provision of law, each school district and county superintendent of schools maintaining any kindergarten or any of grades 1 to 12 shall, commencing on July 1, 1977, provide for each needy pupil enrolled therein, one nutritionally adequate free or reduced-price meal during each schoolday.

49551. The State Board of Education shall adopt regulations prescribing standards and guidelines for carrying out the purposes of this article.

49552. For the purposes of this article, the State Board of Education shall adopt regulations defining needy children within the permissible limitations prescribed by the relevant federal statutes and regulations.

49553. For the purposes of this article, a nutritionally adequate breakfast or lunch is one which meets one-third of the daily

allowance as established by the National Research Council. Where both breakfast and lunch are provided, they shall, together, provide at least one-half to two-thirds of this recommended daily dietary allowance.

49554. Any school district or county superintendent of schools which has inadequate or no food preparation facilities as determined by the Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract with other school districts, county superintendents of schools, public agencies, or nonprofit private agencies for the preparation and delivery of such meals.

49555. A school district or county superintendent of schools which is not providing each enrolled needy pupil with at least one nutritionally adequate free or reduced-price meal during each schoolday, shall submit to the Superintendent of Public Instruction no later than July 1, 1976, a plan of operation for implementation of Section 49550.

49556. The Superintendent of Public Instruction shall supervise the implementation of this article and shall investigate acts of alleged noncompliance. In the event the Superintendent of Public Instruction finds that a school district or county superintendent of schools has failed to comply with the provisions of this article, the Superintendent of Public Instruction shall certify such noncompliance to the Attorney General. The Attorney General shall conduct such investigations as may be necessary to document the noncompliance. The Attorney General shall seek injunctive relief to secure compliance with this article, when such action is requested by the Superintendent of Public Instruction.

## PART 28. GENERAL INSTRUCTIONAL PROGRAMS

### CHAPTER 1. EDUCATION PROGRAM

#### Article 1. Legislative Intent

51000. This chapter may be known as the George Miller, Jr., Education Act of 1968.

51001. It is the intent and purpose of the Legislature in enacting this division to provide for the development, conduct, and enforcement of educational programs in the elementary and secondary schools.

51002. The Legislature hereby recognizes that, because of the common needs and interests of the citizens of this state and the nation, there is a need to establish a common state curriculum for the public schools, but that, because of economic, geographic, physical, political and social diversity, there is a need for the development of educational programs at the local level, with the guidance of competent and experienced educators and citizens. Therefore, it is the intent of the Legislature to set broad minimum standards and

guidelines for educational programs, and to encourage local districts to develop programs that will best fit the needs and interests of the pupils, pursuant to stated philosophy, goals, and objectives.

51004. The Legislature hereby recognizes that it is the policy of the people of the State of California to provide an educational opportunity to the end that every student leaving school shall have the opportunity to be prepared to enter the world of work; that every student who graduates from any state-supported educational institution should have sufficient marketable skills for legitimate remunerative employment; that every qualified and eligible adult citizen shall be afforded an educational opportunity to become suitably employed in some remunerative field of employment; and that such opportunities are a right to be enjoyed without regard to race, creed, color, national origin, sex, or economic status.

The Legislature further recognizes that all students need to be provided with opportunities to explore and make career choices and to seek appropriate instruction and training to support those choices. The Legislature therefore finds that fairs as community resource and youth leadership activities are integral to assisting and guiding students in making such choices and therefore encourage the further expansion of cooperative activities between schools, youth leadership activities, and community resources. Among community resources of particular significance in providing information on various career opportunities are vocational and occupational exhibits, demonstrations and activities conducted at fairs.

51005. In order to carry out the intent of Section 51004, the Department of Education shall annually encourage school districts to plan programs and activities which utilize the resources of fairs and youth leadership activities as an integral part of the vocational instructional program and career decisionmaking.

## Article 2. Definitions

51010. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this part.

51011. "Educational program" means the entire school-sponsored offering for pupils of a district, including in-class and out-of-class activities.

51012. "Common state curriculum" means the basic curriculum which is prescribed by the proper authority for all elementary schools, or all secondary schools, or all elementary and secondary schools.

51013. "Curriculum" means the courses of study, courses, subjects, classes and organized group activities provided by a school.

51014. "Course of study" means the planned content of a series of classes, courses, subjects, studies, or related activities.

51015. "Course" means an instructional unit of an area or field of organized knowledge, usually provided on a semester, year, or prescribed length-of-time basis.

51016. "Class" means an organized group of pupils within a school who are pursuing a particular course, subject or activity.

51017. "Governing board" means that board of education or governing board of any county, city and county, city, or district which has the duty to prescribe the course of study for the schools of the county, city and county, city, or district.

51018. "State board" means the State Board of Education.

51019. "Philosophy" means a composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and objectives of the district are derived.

51020. "Goal" means a statement of broad direction or intent which is general and timeless and is not concerned with a particular achievement within a specified time period.

51021. "Objective" means a devised accomplishment that can be verified within a given time and under specifiable conditions which, if attained, advances the system toward a corresponding goal.

### Article 3. Role of Local Agency

51040. The governing board of every school district shall prepare and shall keep on file for public inspection the courses of study prescribed for the schools under its jurisdiction.

51041. The governing board of every school district shall evaluate its educational program, and shall make such revisions as it deems necessary. Any revised educational program shall conform to the requirements of this division.

### Article 4. Enforcement of Courses of Study

51050. The governing board of every school district shall enforce in its schools the courses of study and the use of textbooks and other instructional materials prescribed and adopted by the proper authority.

51051. The governing board of any school district with more than 8,000 pupils in average daily attendance shall prescribe and enforce in the schools a course of study for mentally retarded pupils as defined in Sections 56501 and 56515.

51052. Each county board of education shall prescribe and enforce a county course of study for mentally retarded pupils as defined in Sections 56501 and 56515. Such county course of study shall be used in special education programs for mentally retarded pupils conducted by the county superintendent of schools and in school districts with an average daily attendance of 8,000 or less.

51053. The course of study for preschool, kindergarten, grades 1 through 6, and grades 7 and 8 of those elementary districts maintaining grades 7 and 8, shall be prescribed and enforced by the governing board. The governing board of any school district may cooperate with the county board of education and the county

superintendent of schools in the development of the courses of study required by this section.

The development of any course of study by a school district governing board which involves the cooperation of the county board of education and the county superintendent of schools is a proper charge against whatever funds the county superintendent of schools may have for this purpose.

51054. Except as provided in Section 51053, the course of study for grades 7 through 12 shall be prepared under the direction of the governing board having control thereof and shall be subject to approval as may be required by the state board.

51055. Courses for continuation high schools shall be prepared under the direction of the governing board having control thereof. Insofar as possible courses shall meet the high school requirements set forth in Sections 51220 and 51222.

51056. A course of study for each adult school shall be prepared under the direction of the governing board of the district maintaining the adult school and shall be subject to approval of the Department of Education.

51057. Upon request of the governing board of any school district, the State Board of Education may, for a number of years to be specified by the board, grant the district exemption from one or more of the course of study requirements set forth in this division. The exemption may be renewed. Such exemption may be granted only if the board deems that the request made is an essential part of a planned experimental curriculum project which the board determines will adequately fit the educational needs and interests of the pupils.

The request for exemption shall include all of the following elements:

- (a) Rationale for the planned experimental curriculum project.
- (b) Objectives of the planned experimental curriculum project.
- (c) Plans for the administration and conduct of the planned experimental curriculum project, including the use of personnel, facilities, time, techniques, and activities.
- (d) Plans for testing and evaluation of the planned experimental curriculum project.
- (e) Plans for necessary revisions, if any, of the planned experimental curriculum project.
- (f) Plans for reporting to the State Board of Education on the planned experimental curriculum project.

## CHAPTER 2. REQUIRED COURSES OF STUDY

### Article 1. General Provisions

51200. Except as otherwise provided, the provisions contained in this chapter are the requirements for courses of study in grades 1 through 12.

51201. In addition to the course of study requirements set forth in this chapter, the governing board of any school district may include in the curriculum of any school such additional courses of study, courses, subjects, or activities which it deems fit the needs of the pupils enrolled therein.

51202. The adopted course of study shall provide instruction at the appropriate elementary and secondary grade levels and subject areas in personal and public safety and accident prevention; fire prevention; the protection and conservation of resources, including the necessity for the protection of our environment; and health, including the effects of alcohol, narcotics, drugs, and tobacco upon the human body.

51203. Instruction upon the nature of alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances and their effects upon the human system as determined by science shall be included in the curriculum of all elementary and secondary schools. The governing board of the district shall adopt regulations specifying the grade or grades and the course or courses in which such instruction with respect to alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances shall be included. All persons responsible for the preparation or enforcement of courses of study shall provide for instruction on the subjects of alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

51204. Any course of study adopted pursuant to this division shall be designed to fit the needs of the pupils for which the course of study is prescribed.

## Article 2. Course of Study, Grades 1 to 6

51210. The adopted course of study for grades 1 through 6 shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

(a) English, including knowledge of, and appreciation for literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.

(b) Mathematics, including concepts, operational skills, and problem solving.

(c) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system including the role of the entrepreneur and labor; man's relations to his human and natural environment; eastern and western cultures and civilizations; and contemporary issues.

(d) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on man's place in ecological systems.

(e) Fine arts, including instruction in the subjects of art and music, aimed at the development of aesthetic appreciation and the skills of creative expression.

(f) Health, including instruction in the principles and practices of individual, family, and community health.

(g) Physical education, with emphasis upon such physical activities for the pupils as may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

(h) Such other studies as may be prescribed by the governing board.

51211. Instruction required by subdivision (c) of Section 51210 in the area of study of social sciences shall also provide a foundation for understanding the wise use of natural resources.

51212. It is the intent and purpose of the Legislature to encourage the establishment of programs of instruction in foreign language, with instruction beginning as early as feasible for each school district.

51213. Instruction in social sciences shall include the early history of California and a study of the role and contributions of American Negroes, American Indians, Mexicans, persons of oriental extraction, and other ethnic groups, and the role and contributions of women, to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the roles of these groups in contemporary society.

### Article 3. Courses of Study, Grades 7 to 12

51220. The adopted course of study for grades 7 through 12 shall offer courses in the following areas of study:

(a) English, including knowledge of and appreciation for literature, language, and composition, and the skills of reading, listening, and speaking.

(b) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; instruction in our American legal system, the operation of the juvenile and adult criminal justice systems, and the rights and duties of citizens under the criminal and civil law and the State and Federal Constitutions; the development of the American economic system including the role of the entrepreneur and labor; man's relations to his human and natural environment; eastern and western cultures and civilizations; and contemporary issues.

(c) Foreign language or languages, beginning not later than grade 7, designed to develop a facility for understanding, speaking,

reading, and writing the particular language.

(d) Physical education, with emphasis given to such physical activities as may be conducive to health and to vigor of body and mind.

(e) Science, including the physical and biological aspects, with emphasis on basic concepts, theories, and processes of scientific investigation and on man's place in ecological systems, and with appropriate applications of the interrelation and interdependence of the sciences.

(f) Mathematics, including instruction designed to develop mathematical understandings, operational skills, and insight into problem-solving procedures.

(g) Fine arts, including art, music, or drama, with emphasis upon development of aesthetic appreciation and the skills of creative expression.

(h) Applied arts, including instruction in the areas of consumer and homemaking education, industrial arts, general business education, or general agriculture.

(i) Vocational-technical education designed and conducted for the purpose of preparing youth for gainful employment in such occupations and in such numbers as appropriate to the manpower needs of the state and the community served and relevant to the career desires and needs of the students.

(j) Automobile driver education, designed to develop a knowledge of the provisions of the Vehicle Code and other laws of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge and attitudes necessary for the safe operation of motor vehicles. A course in automobile driver education shall include education in the safe operation of motorcycles.

(k) Such other studies as may be prescribed by the governing board.

51221. Instruction required by subdivision (b) of Section 51220 in the area of study of social sciences shall also provide a foundation for understanding the wise use of natural resources.

51222. (a) All pupils, except pupils excused or exempted pursuant to Section 51241, shall be required to attend upon the courses of physical education for a total period of time of not less than 400 minutes each 10 schooldays. Any pupil may be excused from physical education classes during one of grades 10, 11, or 12 for not to exceed 24 clock hours in order to participate in automobile driver training. Such pupil who is excused from physical education classes to enroll in driver training shall attend upon a minimum of 7,000 minutes of physical education instruction during such school year.

(b) The governing board of each school district that maintains a high school and that elects to exempt pupils from required attendance in physical education courses pursuant to paragraph (1) or (2) or both of subdivision (b) of Section 51241 shall offer those

pupils so exempted a variety of elective physical education courses of not less than 400 minutes each 10 schooldays.

51223. Notwithstanding the provisions of Sections 51210 and 51222, instruction in physical education in an elementary school maintaining any of grades 1 to 8 shall be for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

51224. No pupil shall receive a diploma of graduation from grade 12 who has not completed the course of study and met the standards of proficiency prescribed by the governing board. Standards of proficiency in basic skills shall be such as will enable individual achievement and ability to be ascertained and evaluated. Requirements for graduation shall include:

- (a) English.
- (b) American history.
- (c) American government.
- (d) Mathematics.
- (e) Science.
- (f) Physical education, unless the pupil has been exempted pursuant to the provisions of this code.
- (g) Such other courses as may be prescribed.

51225. The governing board of any school district maintaining a high school shall adopt minimum academic standards for graduation from the high schools within its school district. Such minimum academic standards shall include separate courses of study including, but not limited to, a course of study designed to prepare prospective students for admission to state colleges and the state university and for vocational training. Such standards shall be made available to the public.

51226. The State Board of Education shall, on or after July 1, 1970, prepare, and distribute to each school district maintaining a high school for its consideration, examples of minimum academic standards for graduation. These examples shall be provided solely to assist each school district in the development of its own minimum academic standards for graduation as required by Section 51225.

Nothing in this section shall be construed to authorize or require the State Board of Education to adopt statewide minimum academic standards for graduation from high school.

51227. Instruction in social sciences shall include the early history of California and a study of the role and contributions of American Negroes, American Indians, Mexicans, persons of oriental extraction, and other ethnic groups, and the role and contributions of women, to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the roles of these groups in contemporary society.

## Article 4. Exemptions from Requirements

51240. Whenever any part of the instruction in health, family life education, and sex education conflicts with the religious training and beliefs of the parent or guardian of any pupil, the pupil, on written request of the parent or guardian, shall be excused from the part of the training which conflicts with such religious training and beliefs.

As used in this section, "religious training and beliefs" includes personal moral convictions.

51241. (a) The governing board of any school district may grant temporary exemption to a pupil from courses in physical education, if the pupil is:

(1) Ill or injured and a modified program to meet the needs of the pupil cannot be provided; or

(2) Enrolled for one-half, or less, of the work normally required of full-time pupils.

(b) The governing board of any school district may grant permanent exemption from courses in physical education if the pupil:

(1) Has completed the 10th grade; or

(2) Is 16 years of age or older and has been enrolled in the 10th grade for one academic year or longer; or

(3) Is enrolled as a postgraduate pupil.

(c) No pupil exempted under paragraph (1) or (2) of subdivision (b) shall be permitted to attend fewer total hours of courses and classes if he elects not to enroll in a physical education course than he would have attended if he had elected to enroll in a physical education course.

51242. The governing board of a school district may exempt any four-year or senior high school pupil from attending courses of physical education, if the pupil is engaged in a regular school-sponsored interscholastic athletic program carried on wholly or partially after regular school hours.

51243. Credit shall be given for purposes of the course of study requirements prescribed by school district governing boards or other authorities having jurisdiction for grades 9 through 12, inclusive, to courses in foreign languages in private schools on the basis of their being at least equivalent to those which would be required for the student in a foreign language class in the same grade level in the public schools. The State Board of Education shall adopt rules and regulations prescribing standards and conditions pursuant to which credit shall be given for those purposes to students in the public schools who have successfully completed foreign language studies in private schools.

51244. The provisions of Section 51243 giving credit for foreign language courses given in private schools shall apply to courses in the following languages: Chinese, French, German, Greek (classical and modern), Hebrew (classical and modern), Italian, Japanese, Jewish, Latin, Spanish, and Russian, and such other languages as the State

Board of Education shall designate.

51245. For purposes of the credit which may be given pursuant to Sections 51243 and 51244 for foreign language courses undertaken in private schools, it shall not be required that instructors in the private schools be regularly credentialed teachers.

51246. The governing board of a school district may exempt any pupil enrolled in his last semester or quarter, as the case may be, of the 12th grade who, pursuant to Section 46145 or 46147, is permitted to attend school less than 240 or 180 minutes per day, from attending courses of physical education; provided, however, that such pupil may not be exempted pursuant to this section from attending courses of physical education if such pupil would, after such exemption, attend school for 240 minutes or more per day.

### Article 5. Drug Education

51260. This article shall be known as "The Drug Education Act of 1971."

51261. The Legislature hereby finds and declares that the use of tobacco, alcohol, narcotics, restricted dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances poses a serious threat to the youth of California.

It is the intent and purpose of the Legislature by this article to provide for the establishment in public elementary and secondary schools of a comprehensive statewide program on drug education for all pupils whereby instruction on the nature and effects of the use of tobacco, alcohol, narcotics, restricted dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances is offered.

Further, it is the intent of the Legislature that such a program provide all of the following:

- (a) Sequential instruction in kindergarten and grades 1 through 12.
- (b) Preservice and in-service training for school personnel.
- (c) Instructional materials for pupils and teachers.
- (d) Identification and reporting of promising programs of instruction and counseling.
- (e) Promotion of effective liaison between school and community involving parents, pupils, community health agencies, law enforcement agencies, and other concerned community groups.

It is the intent of the Legislature that the Department of Education shall facilitate maximum cooperation with other state and federal agencies concerned with drug education and that the Department of Education shall endeavor to attain the maximum amount of federal financial assistance for the implementation of this article. Nothing in this article shall be construed as prohibiting school districts and other state and federal agencies from conducting educational programs beyond those provided by this article.

51262. Instruction shall be given in the elementary and

secondary schools on drug education and the effects of the use of tobacco, alcohol, narcotics, dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

In grades 1 through 6, instruction on drug education should be conducted in conjunction with courses given on health pursuant to subdivision (f) of Section 51210.

In grades 7 through 12, instruction on drug education shall be conducted in conjunction with courses given on health or in any appropriate area of study pursuant to Section 51220.

Such instruction shall be sequential in nature and suited to meet the needs of students at their respective grade level.

51263. The Department of Education shall develop a comprehensive statewide program on drug education by assuming the following functions:

(a) Assist in the development of model curricula for the public schools on drug education and the effects of the abusive use of tobacco, alcohol, restricted dangerous drugs, as defined by Section 11032 of the Health and Safety Code, and other dangerous substances.

(b) Identify innovative teaching methods for the instruction of drug education in the public school system.

(c) Develop methods of evaluating the effectiveness of instruction in drug education.

(d) Serve as the depository for the results of all research relative to drug education.

(e) Assist school districts in conducting teacher training programs on drug education.

(f) Assist teacher training institutions in development of courses on drug education.

(g) Administer pilot projects on drug education and conduct teacher training as may be directed by statute and funded by appropriation.

(h) Assist in the development of adult education programs which will include parents, students, community health agencies, law enforcement agencies, and other community groups. This program shall emphasize the development of coordinated school-community programs relative to drug education.

(i) Provide annual reports of its activities and findings regarding effective drug education programs to the Legislature, local school districts, appropriate agencies and organizations.

51264. The Department of Education shall develop and establish a drug education training program for public school teachers and administrators to provide training at the local district level.

51265. Regional training programs for school district teams of teachers, administrators, youth and community representatives shall be made available to every district under criteria established by the Department of Education.

51266. School district team members shall be reimbursed for

travel and expenses resulting from participation in regional training programs by the school district in which they are employed.

(a) All certificated teaching or administrative personnel attending a training program shall receive their regular salary for the time covered by this attendance, and shall also receive necessary traveling expenses, not exceeding twenty-five cents (\$.25) per mile, excluding the first six miles, one way from the place of their employment to the place of the training program or thirty-five dollars (\$35), whichever is the lesser amount. Claims for necessary traveling expenses shall be paid upon verification and approval by the county superintendent of schools.

(b) When the training is held during the time that the certificated personnel are employed in teaching, their regular pay shall not be diminished by reason of their attendance.

51267. Notwithstanding the provisions of Sections 44227 and 44228, the State Board of Education shall not accredit any teacher education institution for teacher certification purposes after the 1972-73 fiscal year unless it offers courses for prospective teachers on drug education and the effects of the use of tobacco, alcohol, narcotics, restricted dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances. The State Board of Education shall continually reevaluate approved teacher training institutions to insure that programs are in conformance with the intent of this section.

51268. The governing board of each district shall adopt a policy regarding its drug education program by resolution in accordance with guidelines approved by the State Board of Education, specifying, among other things: the curriculum to be utilized in teaching drug education; provisions for in-service training and curriculum assistance to teachers; minimum qualifications necessary for the certificated teachers assigned to teach drug education; and responsibility of certificated personnel in teaching or supervising drug-dependent or debilitated pupils, including the identification, counseling, and medical referral of these pupils.

51269. The supervisor of health or other individuals with similar duties appointed by school district governing boards shall initiate a program of identification, counseling and medical referral of drug-dependent and debilitated pupils. For this purpose, the board shall use any funds, property, or qualified personnel of the district.

The pupil determined to be drug dependent and debilitated according to standards established by the State Board of Education shall be insured proper care, procedure and secrecy pursuant to Sections 49407, 49450, and 49451.

## CHAPTER 3. DIPLOMAS AND CERTIFICATES

## Article 1. Elementary School Diploma

51400. The governing board of any school district maintaining an elementary school may provide for the conferring of diplomas of graduation, by examination, and may issue diplomas of graduation from the elementary schools of the district and from special day and evening classes of elementary grade maintained by the district of any type or class.

51401. Nothing in this article shall be construed as prohibiting the governing board of any school district from issuing diplomas of graduation without examination to the pupils in any school which has been accredited by the county board of education.

51402. The diplomas of graduation from elementary schools shall be conferred only upon the pupils who have completed the course of study prescribed.

51403. Elementary school diplomas granted by the governing board of a school district may be on blanks furnished by the Superintendent of Public Instruction or on forms provided by the district, which shall be subject to the approval of the Superintendent of Public Instruction. All diplomas shall be signed by a majority of the members of the board or its designated representative. Facsimile signatures or signature stamps may be used for this purpose.

## Article 2. Diplomas

51410. No diploma, certificate or other document which is conferred upon a pupil as evidence of his completion of a prescribed course of study or training shall bear any distinctive marking or words which indicate that the pupil upon whom it was conferred was, for purposes of his course of study or training, placed within a particular classification based upon his intellectual or mental capacity.

The provisions of this section shall not be construed to prevent a diploma, certificate or other document from indicating that the pupil upon whom it is conferred maintained exceptionally high grades during his course of study or training, or that he completed his course with honors, or to prevent the governing board of any school district from publicizing such information.

## Article 3. High School Equivalency Certificates

51420. The Superintendent of Public Instruction may issue a California high school equivalency certificate to any person who has not completed high school and who meets the following requirements:

(a) Is a resident of this state or is a member of the armed services assigned to duty in this state; and

(b) Has passed a general educational development test which has been approved by the State Board of Education and which administered by a testing center approved by the Department of Education, with a score determined by the State Board of Education to be equal to the standard of performance expected from high school graduates.

(c) Is at least 18 years of age or who would have graduated from high school had he remained in school and followed the usual course of study toward graduation.

51421. Applications for a California high school equivalency certificate shall be submitted by an applicant on a form prescribed by the Superintendent of Public Instruction. The superintendent may charge a fee, established by the State Board of Education, to be submitted with the application sufficient in amount to pay the cost of administering this article. The amount of each fee may not exceed ten dollars (\$10) per person.

51422. Each testing center shall, upon request of an applicant, provide the Superintendent of Public Instruction with a certificate of results of the applicant's general educational development test.

51423. The Superintendent of Public Instruction may provide for the administration of the general educational development test to persons confined to state or county hospitals or to institutions maintained by state or county correctional agencies.

Such agencies shall, upon request, reimburse the Superintendent of Public Instruction in an amount sufficient to pay the cost of administering the test.

51424. The Superintendent of Public Instruction shall keep a permanent record of California high school equivalency certificates issued pursuant to this article together with applications therefor.

51425. A California high school equivalency certificate shall be deemed to be a high school diploma for the purpose of meeting the requirements of employment by all state and local public agencies in this state.

51426. The State Board of Education shall adopt rules and regulations necessary to implement this article.

51427. All of the fees which may be prescribed by Sections 51421 and 51423 are hereby appropriated without regard to fiscal year for the support of the Department of Education to be used pursuant to this article.

#### Article 4. Veterans Education

440. (a) Subject to regulations which the State Board of Education shall prescribe, the governing board of any school district including a four-year high school or senior high school may, for any person included in subdivision (b), evaluate classes completed in any school, community college, or state college; grant credit toward such classes for military service and training received while in the service of the United States, and if satisfied that such person

completed the equivalent of the requirements for graduation from high school, grant him a diploma of graduation.

(b) Persons who may be granted a diploma pursuant to subdivision (a) are:

- (1) A veteran who is a resident of this state.
  - (2) A former member of the armed forces who is such a resident and who has received other than a dishonorable discharge.
  - (3) A member of the armed forces who is, and on the date he entered the armed forces was, such a resident.
51441. A veteran who entered the military service of the United States while a student in the 12th grade of a high school and who at the time of his entrance into such military service had satisfactorily completed the first half of the work required for the 12th grade shall be granted a diploma of graduation from such high school.
51442. "Veteran" as used in Sections 51440 and 51441 means a person who has served 90 days or more in the military service of the United States during a war with a foreign power or during any national emergency declared by the President of the United States and who has been honorably discharged from such service.

CHAPTER 4. PROHIBITED INSTRUCTION

Article 1. Prejudices

51500. No teacher shall give instruction nor shall a school district sponsor any activity which reflects adversely upon persons because of their race, sex, color, creed, national origin or ancestry.

51501. No textbook, or other instructional materials shall be adopted by the state board or by any governing board for use in the public schools which contains any matter reflecting adversely upon persons because of their race, sex, color, creed, national origin or ancestry.

Article 2. Prohibited Materials

51510. Except as to textbooks approved by the state board or a county board of education, no bulletin, circular, or publication may be used as the basis of study or recitation or to supplement the regular school studies if the material contained in the bulletin, circular, or publication has been disapproved by the governing board of the school district in which the school is situated.

51511. Nothing in this code shall be construed to prevent, or exclude from the public schools, references to religion or references to or the use of religious literature, art, or music or other thing having a religious significance when such references or uses do not constitute instruction in religious principles or aid to any religious sect, church, creed, or sectarian purpose and when such references or uses are incidental to or illustrative of matters properly included in the course of study.

51512. The Legislature finds that the use by any person, including a pupil, of any electronic listening or recording device in any classroom of the elementary and secondary schools without the prior consent of the teacher and the principal of the school given to promote an educational purpose disrupts and impairs the teaching process and discipline in the elementary and secondary schools, and such use is prohibited. Any person, other than a pupil, who willfully violates this section shall be guilty of a misdemeanor.

Any pupil violating this section shall be subject to appropriate disciplinary action.

This section shall not be construed as affecting the powers, rights, and liabilities arising from the use of electronic listening or recording devices as provided for by any other provision of law.

### Article 3. Solicitations

51520. During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the governing board of the school district in which the school is located.

Nothing in this section shall be construed as prohibiting the solicitation of pupils of the public school on school premises by pupils of that school for any otherwise lawful purpose.

51521. No person shall solicit any other person to contribute to any fund or to purchase any item of personal property, upon the representation that the money received is to be used wholly or in part for the benefit of any public school or the student body of any public school, unless such person obtains the prior written approval of either the governing board of the school district in which such solicitation is to be made or the governing board of the school district having jurisdiction over the school or student body represented to be benefited by such solicitation, or the designee of either of such boards.

The prohibitions of this section shall not apply with respect to any solicitation or contribution the total proceeds of which are delivered to a public school, nor to a solicitation of a transfer to be effected by a testamentary act.

#### Article 4. Advocacy or Teaching of Communism

51530. No teacher giving instruction in any school, or on any property belonging to any agencies included in the public school system, shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism.

In prohibiting the advocacy or teaching of communism with the intent of indoctrinating or inculcating a preference in the mind of any pupil for such doctrine, the Legislature does not intend to prevent the teaching of the facts about communism. Rather, the Legislature intends to prevent the advocacy of, or inculcation and indoctrination into, communism as is hereinafter defined, for the purpose of undermining patriotism for, and the belief in, the government of the United States and of this state.

For the purposes of this section, communism is a political theory that the presently existing form of government of the United States or of this state should be changed, by force, violence, or other unconstitutional means, to a totalitarian dictatorship which is based on the principles of communism as expounded by Marx, Lenin, and Stalin.

#### Article 5. Humane Treatment of Animals

51540. In the public elementary and high schools or in public elementary and high school school-sponsored activities and classes held elsewhere than on school premises, live vertebrate animals shall not, as part of a scientific experiment or any purpose whatever:

(a) Be experimentally medicated or drugged in a manner to cause painful reactions or induce painful or lethal pathological conditions.

(b) Be injured through any other treatments, including, but not limited to, anesthetization or electric shock.

Live animals on the premises of a public elementary or high school shall be housed and cared for in a humane and safe manner.

The provisions of this section are not intended to prohibit or constrain vocational instruction in the normal practices of animal husbandry.

#### Article 6. Sex Education Courses

51550. No governing board of a public elementary or secondary school may require pupils to attend any class in which human reproductive organs and their functions and processes are described, illustrated or discussed, whether such class be part of a course designated "sex education" or "family life education" or by some similar term, or part of any other course which pupils are required to attend.

If classes are offered in public elementary and secondary schools in which human reproductive organs and their functions and

processes are described, illustrated or discussed, the parent or guardian of each pupil enrolled in such class shall first be notified in writing of the class. Sending the required notice through the regular United States mail, or any other method which such local school district commonly uses to communicate individually in writing to all parents, meets the notification requirements of this paragraph.

Opportunity shall be provided to each parent or guardian to request in writing that his child not attend the class. Such requests shall be valid for the school year in which they are submitted but may be withdrawn by the parent or guardian at any time. No child may attend a class if a request that he not attend the class has been received by the school.

Any written or audiovisual material to be used in a class in which human reproductive organs and their functions and processes are described, illustrated, or discussed shall be available for inspection by the parent or guardian at reasonable times and places prior to the holding of a course which includes such classes. The parent or guardian shall be notified in writing of his opportunity to inspect and review such materials.

This section shall not apply to description or illustration of human reproductive organs which may appear in a textbook, adopted pursuant to law, on physiology, biology, zoology, general science, personal hygiene, or health.

Nothing in this section shall be construed as encouraging the description, illustration, or discussion of human reproductive organs and their functions and processes in the public elementary and secondary schools.

The certification document of any person charged with the responsibility of making any instructional material available for inspection under this section or who is charged with the responsibility of notifying a parent or guardian of any class conducted within the purview of this section, and who knowingly and willfully fails to make such instructional material available for inspection or to notify such parent or guardian, may be revoked or suspended because of such act. The certification document of any person who knowingly and willfully requires a pupil to attend a class within the purview of this section when a request that the pupil not attend has been received from the parent or guardian may be revoked or suspended because of such act.

51551. The provisions of Section 51550 shall not apply to any venereal disease education classes conducted pursuant to Section 51820.

## CHAPTER 5. AUTHORIZED CLASSES AND COURSES OF INSTRUCTION

### Article 1. Elementary Pupils

51700. The board of education of any city school district, upon the recommendation of the city superintendent of schools, or the board of school trustees of any elementary school district, upon recommendation of the county superintendent of schools, may establish and maintain separate classes for pupils who would profit more from a course other than the regular course of study prescribed for the elementary schools, and may substitute for the regular course of study other types of schoolwork or study approved by the superintendent of schools as being better adapted to the mental needs of the pupils.

51701. Pupils enrolled in such classes shall be required to use the state series of textbooks only insofar as the textbooks are adapted to the work of the classes. All textbooks and materials required in the classes shall be furnished free.

### Article 2. High School Evening Study Halls

51710. The governing board of any district maintaining a high school may establish evening study halls in the high school for the pupils of the high school. The evening study halls shall be under the supervision of certificated personnel employed at the high school, but only such personnel who volunteer their services for such supervision shall be employed for such work by the governing board of the district. The compensation of personnel employed in supervision of evening study halls shall, for such supervisory work, be in the amounts determined by the governing board of the district and shall be paid solely from revenues provided by the district. No state-apportioned moneys shall be expended for such compensation, nor shall any such expenditures be taken into account in computing state aid to the district.

### Article 3. Evening High School for Minors

51720. The governing board of a school district which maintains high schools and a continuation education program may establish and maintain evening high school programs in grades 9 to 12, inclusive, for minors subject to Section 48200.

51721. Notwithstanding any other provision of law, a governing board to which this article applies may establish the number of, and the specific days of the week on which such a program shall be in session. The governing board may further prescribe the number of hours during which the program shall be in session.

51722. An evening high school program shall consist of courses similar to the curriculum of the regular high schools of the district.

Credit for coursework satisfactorily completed shall be acceptable by all of the regular day high schools of the district.

51723. The attendance of a minor at an evening high school program shall be voluntary, but the written permission of the minor's parent or guardian is required.

51724. The attendance of a pupil in an evening high school program shall not result in the crediting of more than one unit of average daily attendance during the regular school year, even if the pupil also attends one or more classes in the regular high schools of the district.

#### Article 4. Elementary School Special Day and Evening Classes

51730. The governing body of any elementary school district may establish and maintain, in connection with any school under its jurisdiction, special day and evening classes and summer schools, consisting of special day classes or special evening classes or both, for the purpose of giving instruction in any of the branches of study prescribed and authorized for the elementary schools.

51731. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year as may be determined by the governing authority in accordance with rules and regulations of the State Board of Education and with the prior written approval of the Superintendent of Public Instruction.

51732. The evening elementary schools and the special day and evening classes of the elementary schools of any school district shall be open for the admission of such minors and adults as in the judgment of the governing board of the school district maintaining the schools or classes may profit from the instruction offered.

#### Article 5. Instruction by Correspondence

51740. The governing board of a district maintaining one or more secondary schools may, subject to such rules and regulations as may be prescribed by the State Board of Education and upon the authorization of the Superintendent of Public Instruction, provide pupils enrolled in the regular day schools of the district with instruction by correspondence provided by the University of California, or other university or college in California accredited for teacher training under this code, in subjects included within or related to the course of study offered in the school and which for good reason cannot be taken by the pupil, and pay the cost thereof. Such instruction when provided for a pupil must be a part of the program of study approved for such pupil.

51741. Notwithstanding anything in Section 51740 to the contrary, the governing board of any school district may, subject to such rules and regulations as may be prescribed by the State Board of Education and upon the authorization of the Superintendent of

Public Instruction, provide veterans enrolled in schools or classes of the district with instruction by correspondence, provided by any university or college referred to in Section 51740 or by any other university, college, school, institution or organization approved by the Superintendent of Public Instruction in subjects which may be necessary to adjust the veteran to an occupation and which, for good reason, cannot be given by the school, and pay for the cost thereof.

#### Article 6. Military Science and Tactics

51750. The governing board of any school district maintaining a secondary school may establish in the school courses in military science and tactics complying with the laws of the United States made and provided with reference to Reserve Officers Training Corps units in educational institutions.

No student enrolled in any such school shall be required to enroll in any course in military science and tactics.

#### Article 7. Work Experience Education

51760. The governing board of any district maintaining a high school may:

(a) Provide for the instruction of pupils in the skills, attitudes, and understandings necessary to success in employment by means of courses of work experience education as provided in this article.

(b) Provide for guidance and supervision procedures designed to insure maximum educational benefit to students from placement in suitable work experience education courses.

(c) Provide for arranging, approving, coordinating, and awarding credit for work experience education courses, and for those purposes employ instructors, coordinators, and other necessary personnel.

(d) Provide for the district to purchase liability insurance for students enrolled in programs of study involving work experience or vocational education at locations off school grounds approved by the governing board, or require students to purchase insurance and to pass on all or a portion of the costs, at the discretion of the governing board, to the district.

51761. The State Board of Education shall establish standards for work experience education, including but not limited to, the following:

(a) Selection and approval of work stations.

(b) Supervision of pupils.

(c) Credit allowable for work experiences.

(d) Guidance procedures related to work experience education.

51762. The Department of Education shall adopt such rules and regulations as are necessary to implement the standards set by the State Board of Education, so as to maintain the educational purpose and character of work experience education.

51763. All laws or rules applicable to minors in employment

relationships are applicable to students enrolled in work experience education courses.

51764. Work experience education as authorized by this article includes the employment of pupils in part-time jobs selected or approved as having educational value for the students employed therein and coordinated by school employees.

51765. The governing board of any school district which establishes and supervises a work experience education program in which mentally retarded pupils are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of pupils so employed.

The Legislature hereby finds and declares that the authority granted by the provisions of this section is necessary to ensure that the work experience education program will continue to provide maximum educational benefit to students, particularly mentally retarded pupils, and that such program is deemed to serve a public purpose.

51766. Work experience education involving apprenticeable occupations shall be consistent with the purposes of Chapter 4 (commencing with Section 3070), Division 3 of the Labor Code and with standards established by the California Apprenticeship Council.

51767. The governing board of any school district which maintains one or more high schools may provide for the establishment and supervision of work experience education programs in contiguous areas outside the district.

51768. The governing board of any school district providing work experience and work study education may provide for employment under such program of pupils in part-time jobs located in areas outside the district and such employment may be by any public or private employer. Such districts may pay wages to persons receiving such training whether assigned within or without the district, except that no payments may be to or for private employers, and may provide workers' compensation insurance as may be necessary.

51769. Notwithstanding any provisions of this code or the Labor Code to the contrary, the school district or county superintendent of schools under whose supervision work experience education, or occupational training classes held in the community, as defined by regulations adopted by the State Board of Education, are provided shall be considered the employer under Division 4 (commencing with Section 3200) of the Labor Code of persons receiving such training unless such persons during such training are being paid a cash wage or salary by a private employer, or unless the person or firm under whom such persons are receiving work experience or occupational training elects to provide workers' compensation insurance. Whenever such work experience education, or occupational training classes held in the community, are under the supervision of a regional occupational center or program operated by two or more school districts pursuant to Section 52301 of the

Education Code, the district of residence of the persons receiving such training shall be deemed the employer for the purposes of this section.

51770. Sections 1292, 1293, and 1294 of the Labor Code shall not apply to work experience education programs established pursuant to this article; provided that the work experience coordinator determines that the students have been sufficiently trained in the employment or work otherwise prohibited, if parental approval is obtained, and the principal or the counselor of the student has determined that the progress of the student toward graduation will not be impaired.

### Article 8. Aviation Education

51790. The Department of Education shall aid and assist local school districts in the development and conduct of a program of aviation education. The Department of Aeronautics may aid and assist in the selection of airports and pilots used by the local school districts in flight indoctrination and instruction.

51791. The governing board of each district is encouraged to develop aims and purposes of aviation education designed to include: (a) integration of appropriate aviation concepts throughout the elementary school with units of instruction in science, social studies, and arithmetic; (b) aviation experiences in junior high schools in the areas of social studies, science, and arithmetic; and (c) elective courses in senior high schools and four-year high schools including air transportation, vocational training, economic, social and political implications of aviation, the science of flight, history of aviation, and flight experience where appropriate airports, planes, and pilots are available, and the need for such instruction is indicated. Periodic reports shall be made to the Department of Aeronautics concerning the flight indoctrination and instruction program.

51792. The Department of Aeronautics is authorized to make available to public schools offering actual flight experience as part of the regular curriculum a basic insurance program and to assure that adequate supervision and precautionary measures are taken by the flight school operators contracted to provide services for public school students. The governing board of any school district offering actual flight experience as part of the regular curriculum may participate in the basic insurance program provided by the commission and pay from the funds of the district a pro rata share of the cost of the insurance program.

### Article 9. Home Teaching

51800. The governing board of any school district, may employ teachers known as "home teachers" not exceeding one teacher for every 500 units of average daily attendance in the elementary or high schools of the district as shown by the report of the county

superintendent of schools for the next preceding school year.

51801. The home teacher shall work in the homes of the pupils, instructing children and adults in matters relating to school attendance and preparation therefor, in sanitation, in the English language, in household duties, such as purchase, preparation, and use of food and clothing, and in the fundamental principles of the American system of government and the rights and duties of citizenship.

51802. The governing board of any school district maintaining a home teaching program, or providing home instruction as authorized by law for pupils afflicted with any form of handicap, may provide such home teaching or instruction on Saturday.

No pupil shall be required to attend upon a home teaching program or home instruction on Saturday without the consent of his parent or guardian.

#### Article 10. Community Service Classes

51810. The governing board of any school district maintaining secondary schools is authorized without the approval of the State Department of Education to establish and maintain community service classes in civic, vocational, literacy, health, homemaking, technical and general education, including but not limited to classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics. Such classes shall be designed to provide instruction and to contribute to the physical, mental, moral, economic, or civic development of the individuals or groups enrolled therein.

51811. Community service classes shall be open for the admission of adults and of such minors as in the judgment of the governing board may profit therefrom.

51812. Community service classes may be convened at such hours and for such length of time during the day or evening and at such period and for such length of time during the school year as may be determined by the governing board of the district.

51813. Governing boards shall have the authority to provide for granting appropriate certificates or other recognition of skill or accomplishment in such classes.

51814. Attendance or average daily attendance in community service classes pursuant to this article shall not be reported to the State Department of Education for apportionment. No apportionment from state funds shall be made to establish or maintain such classes.

51815. Governing boards may expend from the general fund of the district any money which is budgeted for community services to establish and maintain community service classes and may charge student fees not to exceed the cost of maintaining such classes or may provide instruction in such classes for remuneration by contract, or with contributions or donations of individuals or groups.

### Article 11. Venereal Disease Education Classes

51820. The governing board of any district maintaining elementary or secondary schools may offer units of instruction in venereal disease education in such schools with the assistance and guidance of the State Department of Education. The grade level at which such instruction shall be given shall be determined by the governing board of the school district.

Nothing in this section shall be construed as prohibiting or limiting any right provided for in Section 51240.

If venereal disease education classes are offered, the parent or guardian of each pupil enrolled or to be enrolled therein shall be notified in writing of the instructional program. Such notice shall be given at least 15 days prior to the commencement of the instructional program. The notice shall also advise the parent or guardian of his right to inspect the instructional materials to be used in such class and of his right to request the school authorities that his child not attend any such class.

Sending the required notice through the regular United States mail or any other method of delivery which the school district commonly uses to communicate individually in writing to all parents, meets the notification requirements of this section.

The parent or guardian may request that his child not participate in a venereal disease instruction program. Such request shall be in writing, but may be withdrawn by the parent or guardian at any time. No pupil may attend any class in venereal disease education, if a request that he not attend the class has been received by the school in the manner provided in this section.

The parent or guardian of any pupil enrolled or to be enrolled in any venereal disease education class shall be provided the opportunity to inspect the textbooks, audiovisual aids, and any other instructional materials to be used in such classes.

### Article 12. Consumer Economics Programs

51830. The Legislature hereby finds that many high school graduates lack the skills necessary to function effectively in the business world.

The Legislature also finds and declares that most youths are lacking in a basic knowledge of simple contracts, banking and credit transactions, and purchasing practices.

51831. It is the intent of the Legislature to provide pupils in the public school system with the opportunity to learn about the following: the market economy and the consumer's responsibility to make intelligent choices; the knowledge of goods and services necessary to make intelligent decisions; and statutes, regulations, public agencies, and governmental actions affecting consumers.

Furthermore, it is the intent of the Legislature to insure that there is made available to schools the program materials needed to enable

them to offer the basic information prescribed pursuant to this article to pupils enrolled in grades 7 through 12, inclusive.

51832. The Superintendent of Public Instruction shall, with the approval of the State Board of Education, plan and develop a one-semester instructional program entitled consumer economics for use in schools maintaining any of grades 7 through 12, inclusive. When completed, the program shall be made available to all school districts and schools with grades 7 through 12, inclusive.

51833. The instructional program shall include, but not be limited to, the following elements:

- (a) Fundamentals of banking for personal use;
- (b) Elementary contracts;
- (c) Consumer guides to purchasing;
- (d) Uses and costs of credit;
- (e) Types and costs of insurance; and
- (f) Forms of governmental taxation.

51834. To facilitate the development of an instructional program in consumer economics, the Superintendent of Public Instruction shall appoint from voluntary sources one attorney, one economist, one merchandiser, one representative of lending institutions, one consumer, one consumer protection specialist, and one additional member to a committee which shall serve in an advisory capacity to the Superintendent of Public Instruction. The advisory committee shall review existing materials from both governmental and private sources relative to the instructional program, evaluate the instructional materials with regard to the intent of the Legislature as prescribed in Section 51831, and determine what additional instructional materials are necessary. The Superintendent of Public Instruction shall cause to be published the findings of the advisory committee. Members of the committee shall serve for a term of one year or until the instructional program is completed, whichever is sooner.

This section shall remain in effect only until February 1, 1976, and as of that date is repealed.

51835. The Superintendent of Public Instruction shall submit to the Legislature, on or before January 1, 1977, a report on the instructional program in consumer economics together with all accessory data and material. The report shall include, but not be limited to, the following:

- (a) Response from school districts regarding the program;
- (b) Number of schools which currently offer such programs; and
- (c) Number of schools which currently do not offer such a program.

51836. The Superintendent of Public Instruction shall submit to the Legislature, on or before January 1, 1976, a report detailing the progress of the proposed instructional program authorized pursuant to this article.

This section shall remain in effect only until February 1, 1976, and as of that date is repealed.

## Article 13. Driver Training

51850. The governing board of a school district maintaining a high school or high schools, a county superintendent of schools, and the California Youth Authority and State Department of Education in providing programs of high school education, may prescribe regulations determining who can profit by and who shall receive instruction in automobile driver training; provided, however, that no pupil shall be permitted to enroll in automobile driver training unless such pupil is presently enrolled in a course of instruction in automobile driver education, or has satisfactorily completed such course. The regulations shall be subject to such standards for driver education and driver training as may be prescribed by the State Board of Education. Where driver training is provided, such course of instruction shall be given in one or more of the grades 9, 10, 11, or 12. Pupils shall be at least 15 years and six months of age at the time of completion of a driver training course.

51851. A course of instruction in automobile driver education shall:

(a) Be of at least 2½ semester periods and shall be taught by a qualified instructor;

(b) Provide the opportunity for students to take driver education within the regular schoolday, and within the regular academic year, as defined in Section 37250. Additional classes may be offered at the discretion of the local school district governing board, the county superintendent of schools, California Youth Authority, and the State Department of Education, to accommodate those who have failed or those who cannot otherwise enroll in the regular schoolday program. For purposes of this section, the regular schoolday shall be that time during which classes are maintained in the courses of instruction provided for in Chapter 1 (commencing with Section 51000), Chapter 2 (commencing with Section 51200), Article 1 (commencing with Section 51500), Article 2 (commencing with Section 51510), Article 3 (commencing with Section 51520), Article 4 (commencing with Section 51530), Article 6 (commencing with Section 51550) of Chapter 4 of this part, Article 11 (commencing with Section 51820) of this chapter, Chapter 2 (commencing with Section 58400) of Part 31 of this division; and

(c) Be completed by the student within the academic year or summer session in which it was begun.

51852. A course of instruction in the laboratory phase of driver education shall include, for each student enrolled in the class, instruction under one of the following plans:

(a) Plan One. A minimum of 12 hours allocated as follows:

(1) A minimum of six hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) A minimum of six hours in a dual-control automobile with a qualified instructor for the purposes of observation. Practice driving

on an off-street multiple-car driving range approved by the department under the supervision of a qualified instructor may be substituted for all or part of the observation time.

(b) Plan Two. A minimum of 24 hours allocated as follows:

(1) Three hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) Six hours in a dual-control automobile with a qualified instructor for the purposes of observation. Practice driving on an off-street multiple-car driving range approved by the department under the supervision of a qualified instructor may be substituted for all or part of the observation time.

(3) Twelve hours of instruction by a qualified instructor in a driving simulator approved by the department.

(4) At least three additional hours of instruction specified in one or more of paragraphs 1 through 3 of this subdivision.

(c) Plan Three. A minimum of 24 hours allocated as follows:

(1) Three hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) Six hours in a dual-control automobile with a qualified instructor for the purpose of observation.

(3) Twelve hours of instruction by a qualified instructor on an off-street multiple-car driving range.

(4) At least three additional hours of instruction specified in one or more of paragraphs 1 through 3 of this subdivision.

(d) Plan Four. A minimum of 24 hours allocated as follows:

(1) Two hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) Four hours in a dual-control automobile with a qualified instructor for the purpose of observation.

(3) Eighteen hours of instruction by a qualified instructor in a driving simulator approved by the department and on an off-street multiple-car driving range. The governing board of the district shall establish the proportion of time to be utilized in simulators and on the off-street multiple-car driving range.

For purposes of this section, one hour means 60 minutes including passing time.

Any deviation from the standard use of a simulator or off-street multiple-car driving range, or both, shall have prior approval by the Department of Education before the school district, county superintendent of schools, the California Youth Authority, or the Department of Education can be reimbursed for the students trained.

51853. Any reference in this code to automobile driver training shall be deemed to refer to the laboratory phase of driver education described by Section 51852.

## Article 14. Bicycle Safety Instruction

51860. The governing board of any school district having jurisdiction over any elementary, intermediate, or junior high school may provide time and facilities to any local law enforcement agency having jurisdiction over the schools of the district, for bicycle safety instruction.

## Article 15. Classroom Instructional Television

51870. The county superintendent of schools may contract on behalf of any school district under his jurisdiction and for the schools and classes operated by him, subject to the approval of the Superintendent of Public Instruction, to procure television broadcasts or closed-circuit television programs for use in the educational program of the schools in such district, and for the educational program of the schools and classes operated by the county superintendent.

51871. A school district may provide for or contract for, subject to the approval of the Superintendent of Public Instruction, the procuring of television broadcasts or closed-circuit television programs for use in the educational program of the schools of the district.

51872. (a) Under rules and regulations adopted pursuant to Section 51874, the Superintendent of Public Instruction shall administer a high-quality instructional television service for the public school pupils of California, such service to include but not be limited to:

(1) Providing for an equitable high-quality instructional television service to be made available to the largest feasible number of public school pupils utilizing the most appropriate delivery systems;

(2) Providing for contracts with local educational authorities acting on behalf of regional organizations, or directly with regional organizations if they are eligible to enter into such contracts, for assistance in carrying out the following activities:

(A) Developing and implementing an instructional television service in each region, the content and scheduling of which shall be determined by the local school districts which have elected to participate in the instructional television service provided by a regional organization.

(B) Developing and implementing statewide evaluation procedures to be administered by the regional organizations that utilize indicators of pupil progress such as standardized tests of educational achievement and observation of behavioral characteristics. Pupil progress shall be related to hours of viewing instructional television and the cost of providing such televised instruction. Evaluations shall be performed at least once a year and the results reported to the Legislature annually.

(C) Developing and implementing teacher training and parent

involvement programs to maximize the school and home use of instructional television;

(3) Providing for the production of the highest quality instructional television programs possible within the limits of available resources, for distribution by all of the regional organizations on a statewide basis, the content of which will be in the areas of highest priorities of statewide need as determined by the local school districts and the regional organizations in which they participate and with the advice of the State Instructional Television Advisory Committee;

(4) Providing technical assistance to the regional organizations to assist them in the production of the highest quality programming possible within the limitation of available resources, using local district funds. Subject areas for such production shall be determined by the local school districts and the regional organizations and it is expected that such programming will be needed to meet unique regional educational needs;

(5) Providing for the acquisition of programs for the instructional television service on behalf of the regional organizations; and

(6) Providing for statewide coordination among regional organizations, offices of county superintendents of schools, school districts, and other agencies concerned with instructional television services for the purpose of eliminating unnecessary duplication of effort and facilitating the development and economical provision of high-quality programming and utilization in the areas of highest priorities of need as defined by local school districts, regional organizations, the State Instructional Television Advisory Committee, and the Superintendent of Public Instruction.

51873. The following definitions, unless the context otherwise requires, shall govern the construction of this article:

(a) "Instructional television" means television programs whose content is closely related to the adopted formal curriculum of the public schools.

(b) "Instructional television programming" means all the functions necessary to the acquisition and production of instructional television.

(c) "Delivery system" means any form of telecommunications technology which may be used to transmit educational material, including but not limited to, one or more open-circuit broadcast stations, microwave systems, instructional television fixed service (ITFS), community antenna television (CATV), or other cable systems, broadcast translators, and computer-assisted information retrieval systems.

(d) "Open-circuit delivery system" means any public or noncommercial educational television station or any instructional television fixed service (ITFS) broadcast station.

(e) "Closed-circuit delivery system" means any microwave system or community antenna television system (CATV).

(f) "Regional organization" means any agency organized under

the auspices of one or more county superintendents of schools, or one or more school districts, or any combination of county superintendents of schools and school districts, pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, or other appropriate authority, with a demonstrated interest in and capacity for providing services related to instructional television to students, their parents, teachers, and administrators in the area served by the regional organization. A regional organization shall include only county superintendents of schools or school districts of this state, or a combination of both. Regional organizations shall operate pursuant to such terms and conditions as may be adopted by the public school agency or the public school agencies comprising the regional organization and subject to the provisions of this article. The governing board of the regional organization shall include representation from students, teachers, administrators, at least one representative of all open-circuit delivery systems used, and at least one representative of all closed-circuit delivery systems used. The policies of the regional organization shall be adopted by a process which includes all interests represented in the regional organization.

(g) "State Instructional Television Advisory Committee" means a committee whose members shall be appointed by the State Board of Education on the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education and shall consist of eight representatives of regional organizations, with a maximum of one from each region, three public school administrators or classroom teachers or students or parents or any combination thereof, and one professional with expertise in television programming, and one professional actively engaged in the management of delivery systems. Members of the State Instructional Television Advisory Committee shall serve without compensation, except that members shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. Terms for members shall be for a period of three years. Terms for the first members appointed to the committee shall be determined by lot at the first official meeting, as follows:

(1) Terms of two representatives of regional organizations shall be for one year, three for two years, and three for three years.

(2) Terms of one public school administrator, classroom teacher, student, or parent shall be for one year, one for two years, and one for three years.

(3) Other representatives shall serve for an initial term of three years.

Members of the committee may be reappointed for succeeding terms.

51874. The State Board of Education shall establish rules and regulations governing the administration of this article and may request assistance and advice from any interested entities and individuals in the exercise of this responsibility. The Superintendent

of Public Instruction shall enforce such board rules and regulations and shall make an annual report to the State Board of Education on all aspects of instructional television activity in the state. The State Board of Education shall report to the Legislature annually on instructional television activity.

51875. Nothing in this article shall be construed as limiting regional organizations, delivery systems, offices of county school superintendents, or school districts from expending their own funds for purposes related to instructional television programming, utilization, evaluation, or other activities.

51876. This article shall be known as the Quimby-Marler Instructional Television Act.

#### CHAPTER 6. EARLY CHILDHOOD EDUCATION

52000. For the purposes of this chapter, "early childhood education programs" are defined as all educational programs, except those for exceptional children as defined in Section 56030, offered in the public school system, including in-class and out-of-class activities, for children age 3 years and 9 months, to the completion of grade 3 or its equivalent, under a local school-by-school comprehensive master plan approved by the State Board of Education which is designed to assure:

(a) A comprehensive restructuring of primary education in California kindergarten through third grade to more fully meet the unique needs, talents, interests and abilities of each child.

(b) That early educational programs that are or may be made available to children who are 3 years and 9 months of age be coordinated with the restructuring of primary education in California in order to take advantage of the capacity for learning of children at this age level.

(c) The cooperation and participation of parents in the educational program to the end that the total community is involved in the development of the program.

(d) The pupils participating will develop an increased competency in the skills necessary to the successful achievement in later school subjects such as reading, language, and mathematics.

(e) Maximum use is made of existing state and federal funds in the implementation of coordinated early childhood education programs.

52001. As used in this chapter, "parent participation" means the parents taking an active part in the initial planning of early childhood education programs and the implementation, evaluation, and modification of the programs.

Parent participation shall be included in a manner which:

(a) Involves parents in the formal education of their children directly in the classroom and through the decisionmaking process of the California public school system.

(b) Maximizes the opportunity for teachers and parents to cooperatively develop the learning process and its subject matter.

This opportunity shall be a continuous permanent process.

(c) Recognizes that the continuity between the early childhood education program and the home is essential.

52002. The Legislature hereby finds and declares that a comprehensive program of early childhood education is needed to restructure public education in California. The Legislature, therefore, declares its intent to require that the State Board of Education develop a comprehensive program for children ages 3 years and 9 months to the completion of grade 3, or its equivalent. The objectives of this plan will include assurance that each child will have an individualized program to permit the development of his maximum potential and that all pupils who have completed the third grade of the state's educational system will have achieved a level of competence in the basic skills of reading, language, and mathematics sufficient to continued success in their educational experiences. The system will be based on the development of local school-by-school master plans for early childhood education developed and submitted by local school districts which shall include a phase-in program based on an increase in the number of schools in the state participating each year until maximum participation is achieved.

52003. Beginning with the 1972-1973 fiscal year each school district maintaining kindergarten, and grades 1 to 3, inclusive, or any one or more such class or grade, may develop and submit to the Department of Education for approval a master plan for early childhood education. In developing a master plan, the governing board of the school district shall seek direct community, parent, and teacher involvement in all phases of the planning and development of the plan prior to approval.

Application shall be made in accordance with rules and regulations adopted by the State Board of Education.

52004. The governing boards of any school districts maintaining any such class or grade may, with the approval of the Department of Education, develop and submit for approval a joint master plan for early childhood education.

52005. A master plan for early childhood education shall include a comprehensive statement setting forth the district's educational program for early childhood education on a school-by-school basis. The State Board of Education shall establish standards and criteria to be used in the evaluation of plans submitted by school districts. Such standards and criteria for review and approval of plans by the State Board of Education shall include, but need not be limited to provision for:

(a) Assessment of educational needs.

(b) A program of restructuring of kindergarten through third grade.

(c) Opportunities for educational programs for pupils 3 years and 9 months of age including children's center, day care, preschool, and child care services.

(d) Defined and measurable program objectives.

(e) A local program designed to systematically phase into the program all the schools of the district in no more than five years.

(f) Coordination of all district resources with the objectives of the local plan.

(g) Program of evaluation of pupils' health needs.

(h) Emphasis on an individualized diagnostic approach to instruction.

(i) Direct parental involvement in the classroom program and program evaluation.

(j) Programs for comprehensive parent education.

(k) Staff development and in-service training.

(l) Transportation of pupils participating in the program.

(m) Evaluation of the program by the governing board of the school district with the assistance of the administrators, teachers, and parents.

No plan shall be approved by the State Board of Education unless it determines that the plan was developed with the active cooperation of parents, community, and teachers in all stages of planning, approval, and implementation of the plan.

The State Board of Education shall not approve a plan which provides for the initiation of classes for pupils who have attained the age of 3 years and 9 months unless it also contains provisions for restructuring kindergarten and grades 1 through 3.

No district shall initiate classes for pupils of age 3 years and 9 months or over under a master plan for early childhood education until that district has demonstrated to the satisfaction of the State Board of Education that its program for restructuring kindergarten through grade 3, or its equivalent, is completed and successful and no child shall be admitted to such class until it is established that that child will benefit from such instruction. In no event shall such classes be initiated prior to the 1975-1976 fiscal year.

52006. School districts with master plans for early childhood education approved pursuant to Section 52005 shall be eligible for allowances authorized under Sections 52013 and 52014. Such allowances shall be apportioned to the extent that funds are available on a priority basis in accordance with a schedule established by the State Board of Education.

52007. In apportioning allowances in accordance with Section 52006 for early childhood education, the Department of Education shall give highest priority to (1) those districts which have the largest number of pupils determined to have educational need, and (2) those districts with the lowest measure of assessed valuation per pupil and making the most significant property tax effort.

The State Board of Education shall adopt regulations setting forth criteria for the determination of educational need which shall be based on low levels of pupil achievement and such factors as low levels of family income.

52008. Districts receiving allowances pursuant to this chapter shall provide that a minimum of 50 percent of the amount allowed

to the district in any one year shall be designated for schools with the largest number of pupils with educational need identified pursuant to Section 52007 until such time as allowances are authorized for all schools.

52009. The State Board of Education may further provide that, upon its determination, that a district has not met the objectives of its approved plan, allowances shall not be increased in accordance with the phase-in schedule of the district's approved plan. The board shall provide for an annual review of the success of each local district in meeting the objectives of its approved plan for early childhood education. The board shall adopt rules and regulations governing the termination of allowances to districts which are unsuccessful in meeting the objectives of their approved plan.

52010. The State Board of Education shall adopt pupil performance objectives in reading and mathematics for use in district early childhood education programs not later than the 1975-1976 school year. The board is authorized to take all actions necessary to effect the development, testing, validation, adoption and implementation of such objectives.

52011. (a) Each district receiving allowances pursuant to Section 52013 or Section 52014, or both, or implementing a master plan for early childhood education approved by the State Board of Education pursuant to Section 52005, shall submit to the Department of Education a report of its early childhood education program. Such report shall be submitted in a form and manner and at such times, but not less than annually, as prescribed by the State Board of Education. The report shall include, but not be limited to, factors relating to:

- (1) Fiscal expenditures.
- (2) Degree and success of program implementation.
- (3) Quantitative estimate of pupil progress.

(b) The Department of Education shall derive a composite score for each school which shall be obtained from each of the three factors listed in paragraphs (1), (2), and (3) of subdivision (a). In determining such score, the Department of Education shall, for the first year of participation by the school, assign a weight of 20 percent for factor (1), 70 percent for factor (2), 10 percent for factor (3). For the second year of participation by the school, the factors shall be assigned a weight of 10 percent for factor (1), 50 percent for factor (2), 40 percent for factor (3). For the third and each subsequent year of participation, only factors (2) and (3) shall be considered and shall receive equal weighting.

52012. The Department of Education shall compute an index of student attainment for each participating school, using factors which have been shown to be predictive of school success. The obtained score for each school shall be weighted by the degree this score meets or exceeds the predicted school achievement level. Obtained scores falling below the predicted level of attainment shall be treated as a zero score. The Department of Education shall inform each

participating district of the relative performance of their participating schools. Such data shall regularly be analyzed and evaluated and submitted to the Legislature in the form of an annual report not later than the fifth legislative day of each regular session of the Legislature.

52013. From the funds appropriated therefor by the Legislature for the purposes of this chapter, the Superintendent of Public Instruction shall allow school districts with approved master plans for the education of children pursuant to such plans:

(a) Five hundred dollars (\$500) per pupil in average daily attendance in the district in each class maintained for pupils who have attained the age of 3 years and 9 months.

(b) One hundred thirty dollars (\$130) per pupil in average daily attendance in each kindergarten class.

(c) One hundred thirty dollars (\$130) per pupil in average daily attendance in grades 1 to 3, inclusive.

52014. In addition to the allowances provided for in Section 52013, the Superintendent of Public Instruction shall provide grants for pupils determined by him to have demonstrated educational need, in accordance with Section 52007, as follows:

(a) One hundred dollars (\$100) per pupil in average daily attendance in each class for pupils who have attained the age of 3 years and 9 months.

(b) Sixty-five dollars (\$65) per pupil in average daily attendance in each kindergarten class.

(c) Sixty-five dollars (\$65) per pupil in average daily attendance in grades 1 to 3, inclusive.

52015. In computing allowances authorized pursuant to Section 52013 the Superintendent of Public Instruction shall reduce such allowances by the amount per pupil apportioned pursuant to Article 4 (commencing with Section 54160) of Chapter 2 of Part 29 of this division.

52016. Allowances under this chapter shall be made by the Superintendent of Public Instruction from funds appropriated therefor by the Legislature. The allowances shall be made as early as practicable in the fiscal year and upon order of the Superintendent of Public Instruction the State Controller shall draw his warrants upon the money appropriated, in favor of the eligible districts in the amounts ordered.

52017. The Department of Education shall continuously monitor and review to assure that all funds appropriated to school districts under this chapter are expended for the purposes intended.

52018. Allowances shall not be granted under this chapter to a district unless the fiscal effort of the district with respect to early childhood education for any fiscal year of participation under this chapter was not less than the fiscal effort for that purpose for the fiscal year preceding the district's participation under this chapter.

52019. Allowances shall not be granted to a district unless the fiscal effort of that district with respect to each child participating in

the early childhood education program for any fiscal year of participation under this chapter is no less than the fiscal effort of the district per elementary child not participating in the early childhood education program. The Department of Education shall annually review individual district expenditures to assure the comparability of local support based on rules and regulations adopted by the State Board of Education which take into account growth in district enrollment and increases in district costs.

52020. The State Board of Education shall have the power to adopt and promulgate all rules and regulations necessary to the effective administration of this chapter, including, but not necessarily limited to, those specifically required to be adopted by particular provisions of this chapter.

52021. The governing board of the school district, in its application for approval of a master plan, may request waiver of the provisions of any section or sections of this code if such waiver is necessary to establish and operate an early childhood education program. The need for waiver shall be explained and justified in the application. The Superintendent of Public Instruction, with approval of the State Board of Education, may grant, in whole, or in part, any such request when, in the opinion of the Superintendent of Public Instruction, failure to grant such request would hinder the implementation and maintenance of the district's program.

52022. A school district in its application for approval of a master plan for early childhood education may include how child development services are to be coordinated with the program.

52023. The governing board of any school district which has had a master plan for early childhood education approved by the Department of Education shall establish and maintain such number of classes for pupils who have attained the age of 3 years and 9 months, as are necessary to implement such approved master plan for children living in the district that are eligible for admission pursuant to Section 52024 but are not eligible for admission pursuant to Section 48000 and whose parents or guardians present them for admission.

52024. (a) A child may be admitted to a class established pursuant to Section 52023 during the first school month of the term if he is of the age prescribed. For good cause the governing board of a school district may permit a child of the proper age to be admitted to the class after the first school month of the school year.

The child shall be 3 years and 9 months of age on or before September 1 of the current school year.

(b) As an alternative to admitting all children 3 years and 9 months of age on or before September 1 at the beginning of each school year pursuant to subdivision (a), school districts may, as a part of their respective master plans approved under Section 52005, authorize the admission of all children on an individual basis at the time that each respective child reaches four years of age.

(c) The State Board of Education shall adopt rules for the

approval of state aid based upon late enrollment in any school year. For the purpose of this section, late enrollment shall be considered any enrollment after the first month of the school year.

52025. The State Board of Education shall establish minimum standards authorizing service of instructional personnel in classes established pursuant to Section 52023.

52026. The minimum schoolday for classes established pursuant to Section 52023 is 180 minutes inclusive of recesses.

52027. The computation of average daily attendance in classes established pursuant to Section 52023 for the purpose of determining allowances under Sections 52013 and 52014, shall be as prescribed in Sections 46117 and 46320. Sections 46010 to 46013, inclusive, Article 1 (commencing with Section 46000) of Chapter 1, Article 1 (commencing with Section 46100) of Chapter 2 of Part 26 of this division, and Sections 46110, 46111, 46115 and 46119 shall apply.

52028. So much of the moneys appropriated for allowances pursuant to Section 52014, as is needed, shall be for the purpose of providing state funds to be matched with available federal funds to provide public services for those pupils eligible to receive such services. Federal reimbursement shall be obtained by the Department of Benefit Payments for services to children of those families, designated by the Department of Education, eligible for federal financial participation. The Department of Benefit Payments and the Department of Education shall enter into a contract wherein the Department of Education agrees to provide educational services for such pupils wherein the Department of Benefit Payments agrees to pay to the Department of Education all costs of services to participants.

52029. Nothing in this chapter shall be construed to sanction, perpetuate, or promote the racial and ethnic segregation of pupils in public schools.

## CHAPTER 7. BILINGUAL EDUCATION

### Article 1. Bilingual Education Act of 1972

52100. The Legislature finds that there are large numbers of children in this state who come from families where the primary language is other than English. To determine more exactly the need in this area, an annual census is necessary. The inability to speak, read and comprehend English presents a formidable obstacle to classroom learning and participation which can be removed only by instruction and training in the pupils' dominant language. In many of the public schools an inordinately high percentage of pupils are unable to speak the English language. The Legislature further recognizes that high quality bilingual programs in the public schools would allow the acquisition by students of educational concepts and skills needed to improve the development of human resources in this state. The Legislature finds and declares that a primary goal of such programs

is, as effectively and efficiently as possible, to develop in each child fluency in English so that he may then be enrolled in the regular program in which English is the language of instruction.

The Legislature further recognizes that to achieve its intent and purpose it will be necessary to provide means and incentives to train and employ bilingual education teachers and paraprofessional personnel, and to stimulate the hiring of such personnel. It is the intent of the Legislature that public institutions of higher learning shall train bilingual personnel to meet the needs of school districts.

It is the purpose of this chapter to allow public schools of the State of California which choose to participate to establish bilingual education programs. The primary goals of such programs shall be to develop competence in two languages for all participating pupils, to provide positive reinforcement of the self-image of participating children, and to develop intergroup and intercultural awareness among pupils, parents and the staff in participating school districts. Insofar as the individual pupil is concerned, pupil participation is voluntary on the part of the parent. It is the intent of the Legislature to provide supplemental financial assistance to help school districts to meet most of the special costs of phasing-in bilingual education programs.

52101. The State Board of Education shall adopt all rules and regulations necessary for the effective administration of this chapter.

52102. (a) "Bilingual education" is the use of two languages, one of which is English, as a means of instruction in any subject or course. It is a means of instruction in which concepts and information are introduced in the dominant language of the student and reinforced in the second language. It recognizes that teaching of language skills is most meaningful and effective when presented in the context of an appreciation of cultural differences and similarities.

(b) "Children of limited-English-speaking ability" are defined as children who speak a language other than English in their home environment and who are less capable of performing schoolwork in English than in their primary language.

(c) A "non-English-speaking child" is a child who communicates in his or her home language only. Such child is unable to conduct basic conversations in English or take advantage from classroom instruction in English.

(d) "Primary language" is a language other than English which is the language which the child first learned or the language which is spoken in the child's home environment.

(e) "Bilingual teacher" means a teacher fluent in both English and the primary language of the limited-English-speaking pupils in a bilingual program. Such a teacher need not be certificated to teach in both languages, and may be exempted from other certification requirements as set out in Section 52112.

(f) "Bilingual aide" means an aide fluent in both English and the primary language of the limited-English-speaking pupils in a bilingual program.

(g) "Board" means the State Board of Education.

(h) "Superintendent" means the Superintendent of Public Instruction.

(i) "Project" means an organized undertaking in bilingual education which includes, but is not limited to (1) a description of the undertaking, (2) a listing of the goals and objectives to be achieved, (3) a statement of the teaching methods to be used, and (4) a statement of the methods to be used in evaluating the success of the project.

52103. Each school district shall ascertain, not later than the first day of March of each year, under regulations prescribed by the State Board of Education, the number of children of limited-English-speaking ability within their school system, and shall classify them according to their primary language. Those children who are non-English-speaking shall be counted separately. The results of this census shall be reported to the Department of Education by the first day of April of each year.

52104. Each non-English-speaking child shall receive special assistance from the school district which he attends. This instructional assistance shall be provided in any manner approved by the local board of education. This section shall not be construed to require participation by any school district in the bilingual program established by this chapter.

52105. Each participating school district shall prepare a determination of what actually exists, in terms of educational achievement levels in a given school district and the subsequent need for a bilingual program. This determination is a "need assessment." The need assessment shall be verified by a school district advisory committee composed of parents of potential participants in the bilingual program.

52106. Each school district which wishes to participate shall write a project on forms provided by the Department of Education, with the following components: (a) identified goals for bilingual education as determined by the local need assessment, (b) the identification of objectives for the attainment of these goals (the objectives to be stated in measurable terms), (c) a description of how the student is to demonstrate the knowledge or skill to be achieved, (d) the level of performance which will be accepted, (e) a management plan to organize, coordinate and monitor with distinctly outlined plans that will ensure success in the bilingual program, (f) teacher and aide preservice training which will identify and improve knowledge levels of each teacher and aide in teaching methodology, and bilingual philosophy and education, (g) an in-service training program for teachers and aides that is linked with an institution of higher education, which shall include the establishment of a liaison with a nearby institution of higher education and the solicitation of help from such institution in order to continually upgrade the bilingual educational program, (h) a parent-teacher communications plan, (i) a plan for the gradual

assumption of the costs of the bilingual program by the district.

52107. Each participating school district shall have an articulated sequential program of instruction in bilingual education, designed to develop competence in English and in the primary language of the limited-English-speaking participants. Such sequential program shall include criteria, developed with the assistance of the Department of Education, for the placement and removal of pupils in a bilingual program.

52108. At the beginning of each school year, the district shall evaluate each child to be placed in a bilingual program. His strengths and weaknesses in English and in the second language of instruction shall be assessed. At least annually there shall be submitted to the Department of Education an evaluation of the children's progress, including, but not limited to, reading comprehension and speaking skills, in English and the second language of instruction. Such evaluation shall be prepared in the form and manner prescribed by the Department of Education.

52109. In bilingual classes established pursuant to this chapter, there shall be an approximate balance between the number of children whose primary language is other than English, and children proficient in English. Not more than two-thirds of the children enrolled in any such class shall be limited-English-speaking children.

Instruction shall be conducted in both English and in the primary language of the limited-English-speaking children.

52110. All bilingual-bicultural programs which involve special state funding and all bilingual-bicultural programs which are financed by a combination of state funds and federal funds provided under Title VII of the Elementary and Secondary Education Act of 1965, as amended, shall be approved by the State Board of Education and selection shall be made on a priority basis in accordance with policies established by the State Board of Education. The application shall be made on forms provided by the superintendent, in accordance with the rules and regulations adopted by the board. The dates for making application shall be established by the superintendent.

The governing boards of two or more school districts may jointly apply for a project in bilingual-bicultural education.

52111. Each school district receiving state or federal funds for bilingual education shall establish a districtwide advisory committee in which parents (not employed by the district) of participating students shall constitute more than a simple majority, or shall designate for this purpose an existing districtwide advisory structure in which such parents constitute more than a simple majority. A parent advisory group in which parents of participating students shall constitute a simple majority shall be established, or designated from an existing parent group, at each school having a bilingual program.

The Department of Education shall develop guidelines for the process of selection of advisory group members.

52112. All teachers teaching classes funded by this chapter shall be bilingual teachers as defined in subdivision (e) of Section 52102.

In recognition of the shortage of qualified bilingual teachers, a district may, after diligent search and recruitment in California with the assistance of the Department of Education, request from the Superintendent of Public Instruction (a) waiver of certification requirements of such teachers, or (b) authorization to utilize for two years only, a monolingual teacher and a bilingual aide or aides for classes funded under this chapter.

52113. The Department of Education shall administer the provisions of this chapter. The responsibilities of the Department of Education in administering this chapter shall include, but are not limited to, the following:

(a) To review proposals from school districts made in accordance with this chapter, and to recommend acceptable projects for approval by the board;

(b) To encourage experimentation and innovation in the field of bilingual education at the school, district and state levels;

(c) To foster the maximum practicable involvement of parents of children enrolled in bilingual classes;

(d) To make recommendations to districts in the areas of in-service training for teachers and teacher aides, curriculum, testing and testing mechanisms, and the development of materials for bilingual education classes;

(e) To develop and recommend to the Commission for Teacher Preparation and Licensing standards for the certification of teaching personnel for bilingual classes;

(f) To develop an annual evaluation of bilingual programs within the state for submission to the Legislature and to the Governor.

52114. Funds allocated to school districts pursuant to this chapter may be used for the following purposes only:

(1) The employment of bilingual teacher aides;

(2) The purchase and development of special bilingual teaching materials;

(3) The costs of special in-service training and staff development with preference given to teachers and teacher aides employed as part of the bilingual program;

(4) Reasonable expenses (which may include transportation, child care, meals, and training) of parent advisory groups on bilingual education, at the school and district level;

(5) The purchase of special equipment to be used exclusively in the bilingual programs.

## Article 2. Bilingual Teacher Corps Program

52150. The Legislature finds and declares that it is in the best interests of the people of the state to have a corps of bilingual teachers and school administrators who are highly skilled in the techniques of teaching limited- and non-English-speaking children,

and who understand the particular needs of such children.

The Legislature further finds and declares that in order to provide limited- and non-English-speaking children with an equal educational opportunity it is necessary to have adequately prepared teachers and school administrators who understand the needs of such children.

52151. The Superintendent of Public Instruction shall establish a Bilingual Teacher Corps Program for the development of a corps of bilingual teachers qualified to meet the needs of the limited- and non-English-speaking children in the state. The program shall provide a stipend of one thousand five hundred dollars (\$1,500) per year, plus necessary expenses, to individuals serving as teaching aides providing direct instructional services in a public school classroom while such individuals are pursuing an educational program approved by the Department of Education directed toward a teaching credential in a cooperating institution of higher education. Such stipends shall supplement not supplant other state and federal student financial aid programs.

The Superintendent of Public Instruction may enter into contracts with local educational agencies, the California State University and Colleges, and the University of California for the training of these teacher candidates.

The State Board of Education shall adopt rules and regulations for the administration of the Bilingual Teacher Corps Program.

52152. The Superintendent of Public Instruction shall report to the Legislature annually for the duration of the program. Such report shall include the methods of recruitment of the corps members, the number of corps members, an evaluation of the experience provided to corps members and the number of limited- and non-English-speaking children served by the corps members.

## CHAPTER 8. MENTALLY GIFTED MINOR PROGRAM

52200. (a) "Mentally gifted minor," as used in this chapter, means a minor enrolled in a public primary or secondary school of this state who demonstrates such general intellectual capacity as to place him within the top 2 percent of all students having achieved his school grade throughout the state or who is otherwise identified as having such general intellectual capacity but for reasons associated with cultural disadvantages has underachieved scholastically.

(b) "Program" means a special educational program for mentally gifted children, including the identification of such children, which meets the standards established pursuant to this chapter and which is approved by the Superintendent of Public Instruction.

(c) "Participating pupil" means a pupil identified as a mentally gifted minor who for a school semester or a school year takes part in a program.

52201. For the purposes of this chapter, the general intellectual ability of a minor shall be evidenced by one or more of the following

factors:

- (a) Achievement in schoolwork.
- (b) Scores on tests measuring intellectual ability and aptitude.
- (c) The judgments of teachers and school administrators and supervisors who are familiar with the demonstrated ability of the minor.

The general intellectual ability of a minor determined to be culturally disadvantaged shall be evidenced by criteria developed for such purpose by the State Board of Education. In no event shall the general intellectual ability of a minor determined to be culturally disadvantaged be evidenced solely by the criterion of subdivision (b).

52202. The governing board of any school district may provide programs for mentally gifted minors living in the district who are enrolled in kindergarten or grades 1 through 12 in the schools of the district and who may be expected to benefit from a program suited to their abilities. The governing board, subject to such terms and conditions as may be agreed upon, may contract with another school district for furnishing programs for such minors or may so contract for the education of such minors including the furnishing of such programs.

The county superintendent may, with the approval of the county board of education and the governing board of the school district, provide programs under the provisions of this article, and transportation therefor, for mentally gifted minors who reside in any school district. For such purposes the terms "school district" and "governing board of a school district," as used in this chapter, shall be deemed to include the county superintendent of schools.

"Programs," as used in this chapter, shall consist of a special day class, or special services or activities which are provided each participating pupil for an amount of time each week which shall average a minimum of one class period per day. A program may qualify for one semester of pupil participation if it consists of special services or activities which are provided each participating pupil for 200 minutes per week for 17 weeks through two semesters (to be reported at the end of the second semester) or for 60 hours per semester during eight or more weeks of a given semester or for 120 minutes per day for 20 days during a summer session. The State Board of Education shall define a special day class and the special services or activities which may be provided.

Beginning July 1, 1970, any proposed program for mentally gifted minors shall receive prior approval of the Superintendent of Public Instruction before any apportionment is made under this chapter.

52203. The governing board of any school district which provides a program for mentally gifted minors in accordance with Section 52202, may:

- (a) Conduct programs, seminars and classes for mentally gifted minors, as defined in Section 52200, within or without the boundaries of the school district and for that purpose employ instructors,

supervisors, and other personnel and provide necessary equipment and supplies.

(b) Transport or arrange transportation of pupils, instructors, supervisors or other personnel to or from such places where such programs and classes are being conducted, whether within or without the district, but such transportation shall be within the state.

(c) For such purposes use such district facilities as are authorized under Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 of Division 1 of Title 1 for outdoor science and conservation education.

Attendance of pupils at such programs, seminars, and classes shall be included in computing attendance and average daily attendance of the district for the purposes of apportionments from the State School Fund.

52204. The governing board of a school district, in providing programs under this chapter, may enter into agreements with a county superintendent of schools for those appropriate services to districts authorized in Section 1271, Sections 1920 to 1923, inclusive, Article 1 (commencing with Section 1700) to Article 8 (commencing with Section 1770), inclusive, Article 11 (commencing with Section 1830), Article 12 (commencing with Section 1850), Article 14 (commencing with Section 1880), Article 16 (commencing with Section 1930), Article 17 (commencing with Section 1940) of Chapter 6 of Part 2 of Division 1 of Title 1 and for conducting programs for gifted minors enrolled in the schools of the district.

52205. The Superintendent of Public Instruction, if he approves, shall apportion to each applicant school district or county superintendent of schools an amount equal to the following:

Fiscal year	Amount per pupil participating in program for one school year
1972-1973 .....	\$70
1973-1974 .....	80
1974-1975 .....	90
1975-1976 and fiscal years thereafter .....	100

The amount per pupil participating for one semester is one-half of the amount prescribed above for one year's participation.

The Superintendent of Public Instruction, if he approves, shall also apportion to each applicant school district or county superintendent of schools an amount equal to fifty dollars (\$50) for each pupil identified as a mentally gifted minor.

Apportionments made during a fiscal year pursuant to this section shall not be made on account of more than 3 percent of the units of average daily attendance of pupils during the preceding fiscal year credited to all kindergartens and grades 1 through 12 in all of the schools and classes maintained by school districts and county superintendents of schools.

Each applicant school district or county superintendent of schools shall report to the Superintendent of Public Instruction as a part of the annual financial report the total income, including the amount apportioned for special programs and services for mentally gifted pupils during the year, the total number of such pupils participating in special programs or services, and the amount per special program or service expended for them. If the Superintendent of Public Instruction finds that the amount of state funds allocated are in excess of the expenditures, such excess shall be withheld pursuant to the provisions of Section 41341.

52206. The State Board of Education shall adopt rules and regulations which:

(a) Prescribe the procedures, consistent with this chapter, by which a district shall identify pupils as mentally gifted minors for the purposes of this chapter.

(b) Establish minimum standards for programs.

(c) Investigate and establish separate criteria by which a district may identify culturally disadvantaged pupils as mentally gifted minors for the purposes of this chapter.

52207. The Superintendent of Public Instruction shall adopt rules and regulations which for the purposes of this chapter:

(a) Define "apportionment."

(b) Prescribe the form and manner of application for special apportionment.

52208. The Director of Education shall employ such persons as are necessary for the coordination and supervision of services for mentally gifted minors.

## CHAPTER 9. VOCATIONAL EDUCATION

### Article 1. Regional Occupational Centers

52300. In enacting this article, it is the intent of the Legislature to provide qualified students with the opportunity to attend a technical school or enroll in a vocational or technical training program, regardless of the geographical location of their residence in a county or region. The Legislature hereby declares that a regional occupational center will serve the state and national interests in providing vocational and technical education to prepare students for an increasingly technological society in which generalized training and skills are insufficient to prepare high school students and graduates, and out-of-school youth and adults for the many employment opportunities which require special or technical training and skills. The Legislature also declares that regional occupational centers will enable a broader curriculum in technical subjects to be offered, and will avoid unnecessary duplication of courses and expensive training equipment, and will provide a flexibility in operation which will facilitate rapid program adjustments and meeting changing training needs as they arise.

It is recognized by the Legislature that vocational programs may achieve great flexibility of planning, scope and operation by the conduct of such programs in a variety of physical facilities at various training locations.

It is the further intent of the Legislature that regional occupational centers and programs provide vocational and occupational instruction related to the attainment of skills so that trainees are prepared for gainful employment in the area for which training was provided, or are upgraded so they have the higher level skills required because of new and changing technologies or so that they are prepared for enrollment in more advanced training programs.

52301. The county superintendent of schools of each county, with the consent of the State Board of Education, may establish and maintain, or with one or more counties may establish and maintain, at least one regional occupational center, or regional occupational program, in the county to provide education and training in vocational courses. The governing boards of any school districts maintaining high schools in the county may, with the consent of the State Board of Education and of the county superintendent of schools, cooperate in the establishment and maintenance of a regional occupational center, or regional occupational program, except that if such a school district also maintains five hundred (500) or more schools its governing board may establish and maintain one or more regional occupational centers, or regional occupational programs, without such restrictions. A regional occupation center or regional occupation program may be established by two or more school districts maintaining high schools through the use of the staff and facilities of a community college or community colleges serving the same geographic area as the school districts maintaining the high schools, with the consent of the State Board of Education and the county superintendent of schools. The establishment and maintenance of a regional occupational center, or regional occupational program, by two or more school districts may be undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. If a school district or school districts establish and maintain such a regional occupational center, or regional occupational program, pursuant to this chapter, the county superintendent of schools may, with the consent of the State Board of Education, establish and maintain a separate regional occupational center or centers, or regional occupational program or programs.

Notwithstanding other provisions of this section, a single school district located in a class 1 county, as defined in Section 1206, and having an average daily attendance of 50,000 or more, or a single school district located in a class 2 county, as defined in Section 1206, and having an average daily attendance of 100,000 or more, may apply to the State Board of Education through the county superintendent of schools for permission to establish a regional occupational center or program. The State Board of Education shall,

within 90 days of receipt of an application, prescribe a procedure whereby the district may establish a center or program in accordance with its application and in compliance with the provisions of the State Plan for Vocational Education. The county superintendent of schools may supervise establishment of the center or program.

52302. The school district or districts, or county superintendent or superintendents, sponsoring the regional occupational center or program shall conduct a job market survey in those areas in which they propose to establish a regional occupational center or program. The survey shall be conducted in cooperation with the local office of the Department of Human Resources Development, prospective employers, the district's advisory committee on vocational education, and the appropriate advisory committee for each of the proposed training programs. The survey shall include an analysis of existing vocational and occupational training programs maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for trainees in the proposed regional centers and programs justifies the establishment of the proposed courses of instruction.

52303. "Regional occupational program," as used in this chapter, means a vocational or technical training program which meets the criteria and standards of instructional programs in regional occupational centers and which is conducted in a variety of physical facilities which are not necessarily situated in one single plant or site.

52304. Subsequent to completing the survey required by Section 52302 and prior to establishing a regional occupational center or program authorized by Section 52301, the appropriate governing board, boards, or county superintendent of schools, as the case may be, shall determine whether or not the survey and analysis made pursuant to Section 52302 justifies the proposed skill training, and shall further determine whether the skill training will be offered through a regional occupational center or program, or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092.

52305. A regional occupational center or regional occupational program may:

(a) Be established pursuant to Section 52301 to provide day, including Saturday and Sunday, and evening full-time and part-time vocational education programs for minors and adults, the year around.

(b) Include within its vocational training programs, the establishment and operation of a sheltered workshop.

(c) Permit the establishment and operation of such business, commercial, trade, manufacturing, or construction activities as will best serve the aims and purposes of vocational education. Such activities shall also permit the sale of products or services to private or public corporations or companies, or to the general public.

52306. (a) Any business, commercial, trade, manufacturing, or

construction activity referred to in subdivision (c) of Section 52305 may be undertaken as part of a regional occupational center or program provided all the following conditions have been complied with:

(1) Any such facility or program operated pursuant hereto shall be only for the education or training of students enrolled in a regional occupational center or program.

(2) Any such facility or program shall be approved by the appropriate agency of the Department of Education according to requirements and standards of the State Plan for Vocational Education and rules and regulations adopted by the State Board of Education.

(3) Any such facility or program shall be operated on a nonprofit basis, with all revenues restricted in their use to cover instructional and operating costs.

(4) Notwithstanding any other provision of law, any such facility or program initially shall obtain the approval of the appropriate trade associations concerned with the activity proposed and the approval of the county labor council in the county in which the facility or program is located.

(b) An activity conducted by a regional occupational center or program may be conducted without the need to apply for or obtain local business licenses or permits, nor shall the activity be subject to payment of local business taxes.

(c) Attendance of students in any business, commercial, trade, manufacturing, or construction activity referred to in subdivision (c) of Section 52305, at any regional occupational center or regional occupational program, shall be credited to such facility or program for the purposes of apportionments from the State School Fund, except that the Superintendent of Public Instruction shall deduct from such apportionment any revenues earned by such facility or program in excess of operating costs.

52307. To the extent feasible, in establishing programs pursuant to subdivision (c) of Section 52305, efforts shall be made to work cooperatively with sheltered workshops which are located in the area of such programs.

52308. A regional occupational center or program may lease buildings of not more than one story or equipment for a term not to exceed 10 years without complying with any other provision of this code.

Any buildings leased hereunder shall be exempt from any of the provisions of Article 1 (commencing with Section 39100) to Article 7 (commencing with Section 39240), inclusive, of Chapter 2, Article 2 (commencing with Section 39300) of Chapter 3 of Part 23 of Division 3 of this title.

52309. The curriculum provided by a regional occupational center or regional occupational program shall be subject to the approval of the department and shall comply with all requirements and standards set forth in the State Plan for Vocational Education.

The department shall approve regional occupational centers only after giving due consideration to vocational education opportunities offered by community colleges serving the same geographical area. The State Board of Education shall adopt rules and regulations establishing guidelines and criteria for differentiating between courses appropriate for regional occupational centers or regional occupational programs and those appropriate for high schools.

52310. Credits earned from courses completed in a regional occupational center or regional occupational program may be applied toward fulfillment of requirements for a high school diploma. A governing board of a district maintaining a regional occupational center may confer a high school diploma upon any pupil who attends a regional occupational center maintained by the district full time and has satisfactorily completed the prescribed course of study of the school district of residence or the course of study prescribed by the county superintendent of schools, school district, or school districts, as the case may be, maintaining such center.

52311. Each regional occupational center shall be established at a readily accessible place selected to serve the pupils who will attend the center. The county superintendent of schools or district or districts, as the case may be, maintaining, or participating in the operation of, the center may provide necessary transportation to the pupils attending such center.

52312. For the purposes of this chapter the county superintendent of schools, the governing board of the school district, or the governing boards of school districts establishing a regional occupational center, or regional occupational program, may acquire a site for each regional occupational center or regional occupational program maintained by him or the district, or districts, as the case may be, and may plan, construct, purchase, or lease buildings therefor, and may purchase or lease furniture, equipment, fixtures, and other personal property therefor.

52313. The county superintendent of schools or governing board of a school district or districts, as the case may be, maintaining a regional occupational center, or regional occupational program, may accept and expend grants from the federal government or from other public or private sources for the purposes of this chapter.

52314. Any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational center program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is eligible to attend a regional occupational center or regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any such cooperating school districts may admit to such center, or program, any pupil, otherwise

eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to such center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults and minors under subdivision (a) of Section 52305, shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his admission to the regional occupational center or regional occupational program.

A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be. A school district which by itself or in cooperation with other school districts maintains a regional occupational center, or regional occupational program, may admit pupils residing in other school districts under interdistrict attendance agreements made pursuant to Sections 46600 and 46605.

A county superintendent of schools maintaining a regional occupational program or regional occupational center may admit pupils residing in the county but outside of school districts participating in the county regional occupational program or regional occupational center pursuant to the provisions of Section 46617.5. The county superintendent of schools may authorize pupils who reside in school districts participating in the regional occupational center or regional occupational program conducted by the county superintendent of schools to enroll in other regional occupational programs or regional occupational centers when it is determined that it is in the best interest of the pupils to do so. Such attendance shall be pursuant to an attendance agreement specifying that the county superintendent of schools authorizes the regional occupational center or regional occupational program conducting the classes to report and be credited with the attendance of such pupils. Excess costs of education, if any, shall be paid by the contracting county superintendent of schools.

52315. Any visually handicapped, orthopedically handicapped, or deaf person who has been graduated from high school may attend a regional occupational center or regional occupational program on the same basis as a high school pupil. Additional special instruction and support services shall be provided to such persons.

If the Superintendent of Public Instruction determines that there would be a duplication of effort to such handicapped persons if a regional occupational center or regional occupational program provided services to such persons, in that other programs exist that are available to such persons, the superintendent may disapprove of the curriculum to provide programs to such persons pursuant to Section 52309 and of any state funding made available pursuant to

Section 41897 for such purposes.

52316. Any pupil enrolled in grade 10, 11, or 12, and who is also attending a regional occupational center or regional occupational program may be excused from attending courses in physical education by the governing board of the school district maintaining grade 10, 11, or 12, and in which the pupil is enrolled, if attendance upon such classes results in hardship because of travel time involved.

If a pupil is excused from physical education classes pursuant to this section, the minimum schoolday for him in his regular high school is 180 minutes.

52317. The county superintendent of schools, with the approval of the county board of education, and the governing board of each school district, or joint powers governing board, which maintains a regional occupational center or regional occupational program pursuant to this chapter, shall certify to the county auditor and to the county board of supervisors, on or before August 10 of each year, the amount of money required to be raised by a tax for the education of pupils attending the regional occupational center, or regional occupational program, maintained by the county superintendent of schools or by a school district, as the case may be, and for the purposes set forth in Section 52312.

The amount shall be determined by subtracting from the total cost of education of such pupils in the regional occupational center, or regional occupational program, including transportation, to the county superintendent of schools or school district, as the case may be, (1) the total of any balances remaining to be expended for this purpose and (2) the total amount to be apportioned by the Superintendent of Public Instruction to the county school service fund or to the school district, as the case may be, for the education of such pupils and by adding to the result the amount required for the purposes set forth in Section 52312. At the time of levying county taxes, the board of supervisors shall levy a district tax for each regional occupational center, or regional occupational program, maintained in the county by the governing board of a school district pursuant to this chapter upon the taxable property of the school district sufficient to produce the amount required by this section; and the board of supervisors may levy a county tax for each regional occupational center, or regional occupational program, maintained in the county by the county superintendent of schools pursuant to this chapter sufficient to produce the amount required by this section, upon the following taxable property within school districts under the jurisdiction of the county superintendent maintaining the regional occupational center or regional occupational center program:

(a) In a county in which the governing board of a school district is not maintaining a regional occupational center or regional occupational program pursuant to this chapter, upon all the taxable property within school districts under the jurisdiction of the county superintendent maintaining the regional occupational center or

regional occupational center program.

(b) In a county in which the governing boards of one or more school districts are maintaining a regional occupational center or regional occupational program pursuant to this chapter, upon the taxable property within that portion of the territory within school districts under the jurisdiction of the county superintendent maintaining the regional occupational center or regional occupational center program which is not included in territory of such school districts.

The amount received from this tax shall be deposited in the county school service fund, or, if the regional occupational center, or regional occupational program, for which such tax was levied is maintained by a school district, in the county treasury to the credit of the general fund of that school district.

The maximum rate of the countywide or district tax levied for the purposes of this section, except for the purposes set forth in Section 52312, shall not exceed ten cents (\$0.10) on each one hundred dollars (\$100) of assessed valuation within the county or district, as the case may be, and the maximum rate of the countywide or district tax levied under this section for the purposes set forth in Section 52312 shall not exceed five cents (\$0.05) on each one hundred dollars (\$100) of assessed valuation in the county or district, as the case may be.

As used in this section, school district includes each of those school districts which are cooperating in the maintenance of a regional occupational center, or regional occupational program, with the approval of the county superintendent of schools pursuant to Section 52301.

52318. If a single school district located in a class 2 county, as defined in Section 1205, and having an average daily attendance of 100,000 or more, establishes and maintains a regional occupational center or regional occupational program pursuant to Section 52301, the amount computed pursuant to subdivision (a) of Section 42233 shall be deemed to have been increased by the amount raised within the district by a countywide tax for the support of such a center or program during the 1972-73 fiscal year by the county superintendent of schools. The other computations required by Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 3 of this title shall be adjusted to appropriately reflect such increase. The revenue limit applicable to a county superintendent of schools shall be reduced by an amount equal to the increase in the revenue limit of the school district made pursuant to this section.

52319. Whenever the establishment and maintenance of a regional occupational center by two or more school districts has been undertaken pursuant to an agreement entered into in accordance with the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and the terms of the agreement so authorize, provision may be made for the issuance of bonds for construction and other capital expenditure for

the regional occupational center. An election shall be called, held, and conducted in the manner provided in Chapter 3 (commencing with Section 5300) of Part 4 of Division 1 of Title 1 on the question of the approval of the issuance of such bonds. If, at the election, the requisite number of voters cast their ballots in favor of the issuance of bonds, the bonds shall be issued and sold in the manner provided by law for the issuance and sale of bonds of a high school district. The issuance and sale of such bonds shall be deemed to be an act of the governing board of a high school district.

The total amount of bonds issued shall not exceed one-half of 1 percent of the taxable property of the area served by the regional occupational center as shown by the last equalized assessment roll of the county or counties which the center serves, and as modified pursuant to Section 41201.

Bonds issued and sold pursuant to this section shall be retired from proceeds of the tax under the provisions of Section 52317.

52320. For the purposes of receiving advances of funds from the county treasury only, a regional occupational center shall be deemed to be a school district.

52321. A regional occupational center or program established and maintained pursuant to a joint powers agreement pursuant to the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit per unit of average daily attendance of such district computed pursuant to Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 3 of this title or the foundation program of such district, whichever is the lesser.

52322. The State Board of Education shall make provision in allocating any funds received from the federal government pursuant to Public Law 576 of the 90th Congress to include regional occupational centers and programs that comply with the requirements of this chapter.

52323. No instruction shall be given in a regional occupational center except by a qualified teacher holding a certificate issued pursuant to Chapter 2 (commencing with Section 44200) of Part 25 of Division 3 of this title.

52324. Units of average daily attendance in the regional occupational centers or regional occupational programs of a county for a fiscal year are the quotient arising from dividing the total number of days of pupil's attendance in such centers, or programs, during the fiscal year by 175 and the average daily attendance so computed shall be credited to the county school service fund if the center, or program, is maintained by a county superintendent of schools or if the center, or program, is maintained by a school district, to the district maintaining the center or program.

Attendance in regional occupational centers, or regional occupational programs, operated under subdivision (a) of Section

52305 shall be considered pupil's attendance under this section, but attendance in regional occupational centers, or regional occupational programs, under subdivision (b) of Section 52305 shall not be so considered.

As used in this section, "school district" includes each of those districts which are cooperating in the maintenance of the center or program, with the approval of the county superintendent of schools, pursuant to Section 52301; and units of average daily attendance of pupils residing in such school district shall be credited to the school district or county office of education as may be appropriate.

52325. Any district or county superintendent who operates a 60-minute regional occupational program shall be credited with one-third of a unit of average daily attendance for each student in a 60-minute regional occupational program and two-thirds of a unit of average daily attendance in a 120-minute program.

52326. The minimum day in a regional occupational center is 180 minutes and the minimum day in a regional occupational program is 60 minutes.

52327. The Department of Education shall annually, on or before the 30th day of each year, submit to the Legislature an evaluation of the regional occupation centers and programs for the preceding fiscal year. The evaluation shall include an analysis of the costs of individual centers and programs, their enrollment defined in terms of high school students, post-high school students, and adults, number of graduates, number of trainees trained for specific entry level occupations as opposed to higher level entry occupations, dropout rates, and placement data.

52328. (a) Any school district, located in whole or in part in a county contiguous with the Republic of Mexico, or any county superintendent of schools of a county contiguous with the Republic of Mexico, which maintains a regional occupational center may enter into a student exchange agreement with a trade and technical training school located in the Republic of Mexico. Such student exchange agreement shall permit Mexican students to take all or part of their occupational training in the regional occupational center and shall permit United States students to take all or part of their occupational training in the Mexican trade and technical school.

(b) In computing the average daily attendance of the regional occupational center, the Superintendent of Public Instruction shall include any Mexican students in attendance if all of the following conditions are met:

(1) The student exchange agreement provides as nearly as practicable for the exchange of students on a one-for-one basis between the regional occupational center and the trade and technical school.

(2) The educational services provided the United States students in Mexico are at least equivalent in quality to the services provided in the regional occupational center.

(3) The student exchange agreement has been approved by the

Superintendent of Public Instruction prior to its operative date.

(c) No average daily attendance shall be credited to the regional occupational center for the United States students while in attendance at the Mexican trade and technical school.

52329. The governing board of a school district located in a county, or the county superintendent of schools maintaining a regional occupational program in a county, any of the boundaries of which are contiguous to the State of Arizona, may enter into an agreement with a public or private educational agency located in that state to provide to students living in the district and enrolled in a regional occupational program, vocational or technical training which, due to geographical isolation, is not otherwise available to such students.

The program of training at such public or private educational agency shall be approved by the Superintendent of Public Instruction of California and shall conform to the California State Plan for Vocational Education.

The attendance of pupils receiving vocational or technical training at a public or private educational agency as authorized by this section shall be included in the computation of average daily attendance as prescribed by Sections 52324 and 52325, and shall be credited to the county school service fund of the county of residence. In no event, however, shall the county school service fund be credited with more than one unit of average daily attendance per calendar year on account of a pupil participating in a program authorized by this section.

52330. The governing board of any school district or the county superintendent of schools that is operating or jointly operating a regional occupational center or program may establish and maintain regional occupational center or regional occupational program classes in industrial or school facilities located outside of the school district or the jurisdiction of the county superintendent of schools, respectively, for the purpose of providing training for students enrolled in such a center or program.

The governing board of a school district or the county superintendent of schools shall notify the Superintendent of Public Instruction, prior to the establishment of classes pursuant to this section, of the proposed establishment.

## Article 2. California Career Guidance Center

52340. The Legislature hereby finds and declares that there exists in this state a serious need to increase the effectiveness of career development programs. For this purpose, the Legislature intends that the one pilot California career guidance center, established pursuant to this chapter, shall serve as a regional guidance resource center, amply equipped with modern occupational measurement and career guidance materials and a professional resource staff. The Department of Education, in cooperation and consultation with the

advisory committee established pursuant to Section 52344, shall provide state-level guidance and supervision to the career guidance pilot project.

52341. Application for establishment of a career guidance center may be made to the State Board of Education by any county superintendent of schools or the governing board of any school district, either separately or jointly, upon forms provided by the Department of Education. The Board of Education shall select one applicant to be designated as a pilot California career guidance center.

52342. Upon recommendation of the Superintendent of Public Instruction, the State Board of Education shall adopt guidelines which shall include, but not be limited to, criteria for selection of an applicant pursuant to Section 52341, selection of project sites, fiscal accountability, and procedures relative to interagency contracting and overall project administration and evaluation.

52343. In the implementation of this chapter, the Department of Education shall, on a regular basis, advise and consult with representatives of the Department of Human Resources Development, the office of the Chancellor of the California Community Colleges, the California Postsecondary Education Commission, the University of California, the Chancellor of the California State University and Colleges, the Commission for Teacher Preparation and Licensing, the Department of Industrial Relations, the Department of Consumer Affairs, the California Advisory Council on Vocational Education and Technical Training, and the State Personnel Board.

52344. The career guidance center shall appoint a local advisory committee composed of 11 members, at least seven of whom shall be representatives of business, industry and labor, and the general public, and one a member of the local area vocational committee established pursuant to Article 2 (commencing with Section 8020) of Chapter 1 of Part 6 of Division 1 of Title 1, provided that such a vocational committee is operational in the area of the career guidance project site selected.

52345. The local advisory committee shall:

(a) Make annual formal findings and recommendations regarding the operation of the career guidance center and report thereon to the Department of Education.

(b) Cooperate and consult with the Department of Education for the purposes provided in Section 52340.

Members of the local advisory committee shall serve without compensation, but they shall receive actual and necessary traveling expenses in performing duties under this section.

52346. The career guidance center has such powers as are necessary to carry out the provisions of this chapter, in accordance with guidelines adopted by the State Board of Education including, but not limited to, contractual powers to employ staff and provide products and services pursuant to this chapter.

52347. The career guidance center shall develop and maintain a program consisting of, but not limited to, the following components:

(a) An inventory of career guidance measurement instruments for use in determining career aptitudes and interest.

(b) An inventory of resource material related to the preparation of occupational competencies.

(c) The development of techniques and practices for, and the conduction of, in-service training of staff in educational agencies implementing career development activities.

(d) A system for collecting, coordinating, and distributing career information at the local, state, and national levels.

(e) A basic set of functions for additional centers.

52348. On or before March 30, 1975, and annually thereafter, the career guidance center, shall submit to the State Board of Education an inventory of programs, current and planned, as follows: (a) occupational and job analyses, (b) occupational and job performance testing and evaluation, both written and nonwritten, (c) costs of job training for classroom, on-the-job, and home-study programs, (d) work experience evaluation, especially in relation to occupational competencies, (e) quality control techniques and practices for conducting job-training programs, (f) personnel selection techniques, practices, and respective costs thereof, (g) administration and evaluation of occupational training advisory committees for entry, but not necessarily including, professional levels, and (h) proportion of employees and students enrolled in job-training programs at entry, but not necessarily including, professional levels.

### Article 3. Prevocational Education

52350. It is the intent and purpose of the Legislature by the enactment of this chapter to curtail the growing rate of pupil dropouts or premature enrollment terminations in the public elementary and secondary schools, by authorizing special emphasis to be given prevocational training courses of study for the benefit of vocationally oriented pupils who are potential school dropouts, have demonstrated aptitudes for prevocational training, and who voluntarily elect to undertake a concentration of educational effort in prevocational training and whose parents or guardian consents to such training.

52351. The county superintendent or the governing board of any school district, as the case may be, maintaining any of grades 7, 8, and 9, may, upon application to, and approval by, the Superintendent of Public Instruction, establish a program having the following essential elements:

(a) Identification, by appraisal and recommendation of teachers and other school authorities, aptitude tests, and such other tests and means as may be authorized by the State Board of Education, of pupils whose academic attainment level and behavior as school

pupils indicate that in all probability they will terminate public school enrollment prior to completion of grade 12, but who demonstrate aptitude for one or more types of prevocational training afforded in the schools of the district.

(b) Prevocational courses of study arranged and conducted in such a manner as will permit pupils to concentrate educational effort in those courses of study pursuant to this chapter.

(c) Counseling and guidance procedures which will effectuate the purposes of this chapter.

The county superintendent shall have primary authority to establish the program within his county. Should he fail, for any reason, to establish or initiate action for the establishment of a program after receiving a written request therefor from the governing board of a school district, the governing board shall have full authority to establish a program.

52352. Notwithstanding any provisions of this division or any other provisions of law prescribing, on a mandatory basis, courses of study to be taught in grades 7, 8, and 9 to the contrary, the State Board of Education is authorized and directed to prescribe, by rule and regulation, the particular courses of study otherwise required by law to be afforded pupils in such grades which shall be waived or dispensed with in the case of pupils enrolled in programs under this chapter. The otherwise mandatory courses of study to be so waived or dispensed with shall be those of lower essentiality in connection with instilling in pupils the traits and attributes necessary for good citizenship, as determined by the board.

52353. Any pupil coming within the provisions of subdivision (a) of Section 52351 shall, as a matter of free personal choice, and with the consent of the pupil's parent or guardian, without duress or coercion, be authorized to elect to enroll in prevocational courses for which such pupil possesses demonstrated aptitudes, as follows:

(a) In grade 7, one such course of study in each semester of the school year.

(b) In grade 8, two such courses of study in each semester of the school year, provided that the pupil successfully completed any course of study in which enrolled under subdivision (a) during the preceding school year.

(c) In grade 9, three such courses of study in each semester of the school year, provided that the pupil successfully completed any course of study in which enrolled under subdivision (b) during the preceding school year.

52354. It shall be unlawful, for the governing board of a school district, a county board of education, a county superintendent of schools, or any officer or employee whatever of the public school system, to willfully:

(a) Cause, or aid or abet in the forced or coerced enrollment of a public school pupil in any prevocational course of study as a disciplinary measure, whether pursuant to this chapter or otherwise.

(b) Cause, or aid or abet in effecting any distinction in the form,

appearance, or content of any diploma issued upon graduation from elementary school or high school based on a pupil's having enrolled in a program under this chapter as distinguished from the regular educational programs of the district involved.

52355. The State Board of Education shall adopt rules and regulations prescribing the particular procedures, tests, and other methods to be utilized in identifying pupils who come within the provisions of subdivision (a) of Section 52351, and prescribing all other necessary standards and policies to govern the administration of programs established under this chapter.

The Superintendent of Public Instruction shall administer the provisions of this chapter, and shall adopt all necessary rules and regulations for those purposes. He shall have the power of initial and continuing review and approval of any programs established pursuant to this chapter and the power to deny or revoke approval of such programs. He may require the submission of such reports and other data as he may deem necessary for purposes of carrying out his duties under this chapter.

#### Article 4. High School Vocational Courses

52370. The governing board of any high school district may provide for the maintenance on Saturday of special day and evening classes in vocational training authorized and provided for by any program of national defense of the federal government, or any agency thereof, acting through the Department of Education.

No apportionments from state funds based upon average daily attendance in such special day or evening classes, whether maintained on Saturday or other days, shall be made where the total cost of the classes is borne by the federal government, or any agency thereof.

52371. Pilot programs may be established by school districts to provide for the maintenance on Saturday of classes in vocational training, upon the approval of the Superintendent of Public Instruction. Such vocational training may be a part of, but is not limited to, a program of national defense of the federal government, or any agency thereof.

No apportionments to such districts from state funds based upon average daily attendance in such classes, whether maintained on Saturday or other days, shall be made where the total cost of the classes is borne by the federal government, or any agency thereof.

52372. The governing board of any high school district, subject to the provisions of this code relating to courses of study for high schools, may establish and maintain, in connection with any high school under its jurisdiction, cooperative vocational courses in accordance with standards prescribed by the State Board of Education.

52373. The governing board of any high school district maintaining an agriculture course may transport pupils, instructors,

or supervisors of classes to and from any classes or places where the work of the classes is being done, whether within or without the district, in the same manner and subject to the same limitations as in transporting pupils to and from school.

52374. The duties, powers, purposes, responsibilities, and jurisdiction of the governing board of any high school district with respect to any high school established in the district prior to August 14, 1929, and not supported in whole or in part by any funds derived from the levy of any district tax may, with the approval of the State Board of Education, acting upon the recommendation of the Superintendent of Public Instruction, be transferred to the Chief of the Division of Vocational Education in the Department of Education who may appoint any qualified person to exercise immediate supervision over the school.

#### Article 5. Summer Vocational Education

52380. This article may be cited as the Summer Vocational and Technical Education Act of 1969.

52381. The Legislature finds that it is urgently necessary to reduce the continuing high level of unemployment among the youth and young adults by broadening and strengthening the existing vocational education programs to provide them with the necessary work skills in order that they will be equipped to participate in a meaningful manner in our ever increasingly technical society.

It is the intent of the Legislature by the provisions of this article to afford a means whereby school districts may broaden and strengthen the existing vocational education programs and to provide the districts with necessary financial support to enable them to implement vocational training and work programs during the summer months for the unemployed youth and young adults so that they may be trained in marketable work skills and earn such funds as may be necessary to enable them to continue their education.

52382. A program of summer vocational and technical education may be established pursuant to this article by the governing board of any school district maintaining one or more high schools. Pupils who have completed grades 9 to 12 may be permitted to participate in a program.

Summer vocational and technical education programs shall consist of training and instruction in any skills and crafts in which ample opportunities for gainful employment are to be found. The program may include work experience involving the gainful employment of pupils. The provisions of Article 2 (commencing with Section 1940) of Chapter 2 of Part 7 of the Labor Code, limiting the employment of aliens by public agencies shall not be applicable to the employment of pupils under this article.

52383. Wages earned by pupils participating in a program of summer vocational and technical education, shall be paid weekly, or, if not reasonably possible, biweekly.

52384. Any program of summer vocational and technical education established pursuant to this article shall be subject to the prior approval of the Department of Education, and no average daily attendance of pupils in such a program shall be credited to a district unless the program has been approved and is conducted pursuant to the rules, regulations, and standards prescribed by the department. School districts desiring to participate under the provisions of this article shall submit to the department applications which shall include plans for the establishment of a summer vocational and technical education program, and describing in detail its proposed content and operation.

52385. Each school district participating in the program shall submit a report annually on the conduct of its summer vocational and technical education programs, including an evaluation thereof, to the department on forms provided by the department.

52386. Upon approval by the department, the governing board of any school district may contract with and receive and expend funds from any other public or private agency, foundation, or corporation for the purposes of this article. The governing board of any school district may cooperate with public and private institutions of higher education in conducting programs pursuant to this article.

52387. The governing board of a school district whose program has been approved by the department, may, no more than 10 weeks prior to the beginning of the program for the forthcoming summer, employ sufficient staff to perform the administrative tasks necessary to implement the program.

52388. The department shall adopt such rules and regulations that are necessary to implement the provisions of this article. The rules and regulations shall include standards for the vocational and technical education programs provided for under this article.

52389. The department in cooperation with the school districts shall develop curriculums for purposes of this article.

52390. The department shall annually, on or before the 30th legislative day of the regular session of the Legislature, report to the Legislature on the operation and results of the programs established pursuant to this article, including in the report its recommendations in connection therewith.

52391. From funds appropriated by the Legislature for the purposes of this article, a school district, upon the approval of the department, shall be reimbursed for the current expense actually incurred by the district per pupil in average daily attendance participating in the program during the preceding fiscal year that is in excess of the foundation program amount for the district during such year for such pupil, plus any other state funds or federal funds received, or to be received, for operation of the program.

**Article 6. Summer Environmental Internship Program**

52410. Upon the approval of appropriate school district personnel, or the approval of the county superintendent of schools as to students under his jurisdiction, and with the written approval of the parent or guardian of the student, a student in grade 11 or 12, who will be at least 17 years of age at the commencement of his junior year, may be employed as an environmental intern by a federal, state, or local agency in California concerned with the regulation of natural resources or with the protection of the environment during the summer vacation period. These agencies shall include, but not be limited to, the Resources Agency, the Agriculture and Services Agency, the Business and Transportation Agency, the Department of Fish and Game, the Department of Conservation, the Department of Parks and Recreation, the Department of Water Resources, the State Water Resources Control Board, the State Air Resources Board, the State Lands Division, California regional water quality control boards, air pollution control districts, mosquito abatement districts, soil conservation districts, local planning agencies, and county and city park and recreation departments.

52411. Duties of environmental interns employed pursuant to this article shall be established by the employing agency in conjunction with the local school district or the county superintendent of schools and shall be oriented toward providing maximum exposure to problems of environmental control and resource use.

52412. Approval of environmental internships shall be required by the district superintendent or the county superintendent of schools.

52413. Successful completion of a summer program and submission by the environmental intern of a suitable project report to the school district may result in academic credit toward graduation from high school. Such students may be deemed to be temporarily employees of the agency involved for purposes of social security, unemployment insurance, and workers' compensation or may be deemed for these purposes to be employees of the school district or the county superintendent of schools.

52414. The school district or county superintendent of schools and the employing agency shall jointly apply to the Conservation Education Service for funds. The Superintendent of Public Instruction, upon the recommendation of the Curriculum Development and Supplemental Materials Commission, and with the approval of the State Board of Education, is authorized to make grants for the purposes of this article, and for remuneration of interns and for travel and other job-related expenses, in an amount per person not to exceed three hundred twenty dollars (\$320) per month.

## CHAPTER 10. ADULT SCHOOLS

## Article 1. General Provisions

52500. For the purposes of this chapter, "adult" means a person 21 years of age and older, and "minor" means a person less than 21 years of age, notwithstanding the provisions of Section 25 of the Civil Code or any other provisions of law.

52501. The governing board of any school district maintaining secondary schools shall have power with the approval of the Department of Education to establish and maintain classes for adults, except program and classes in outdoor science education and conservation education as the term is employed in Section 8760, for the purpose of providing instruction in civic, vocational, literacy, health, homemaking, technical and general education.

52502. The governing board of a high school district or unified school district may establish classes for adults. If such classes result in average daily attendance in any school year of 100 or more, such districts shall establish an adult school for the administration of the program.

52503. The governing board of a high school district or unified school district may establish and maintain one or more adult schools by resolution of the governing board.

52504. Classes for adults shall conform to any course of study and graduation requirements otherwise imposed by law or under the authority of law.

52505. Such classes may be convened at such hours and for such length of time during the day or evening and at such period and for such length of time during the school year as may be determined by the governing authority.

52506. The Department of Education shall establish standards including standards of attendance, curriculum, administration, and guidance and counseling service for such classes as a basis for the several apportionments of state funds provided herein for the support of such classes.

52507. Governing boards shall have the authority to provide for granting appropriate credits, certificates, diplomas or other recognition of skill or accomplishment in such classes which such districts are otherwise authorized to grant.

52508. The governing board of a high school district or a unified school district shall have the authority to award diplomas or certificates to adults and eligible minors enrolled in adult schools upon satisfactory completion of a prescribed course of study in an elementary school program.

52509. The governing board of any school district maintaining an adult school shall prescribe the requirements for the granting of diplomas.

52510. The governing board of each district maintaining an adult school and offering an elementary program shall prescribe

requirements for eighth grade graduation from the adult school.

52511. (a) Whenever the governing board of a school district maintaining an adult school or classes for adults is unable to maintain the school or classes in the district because of its inability to secure a teacher or teachers, or because of lack of facilities, the board may, with the approval of the county superintendent of schools and the Superintendent of Public Instruction, maintain the school or classes of the district elsewhere than within the district or contract for instruction of the students in such school or classes with the governing board of another district.

(b) Notwithstanding the provisions of subdivision (a) of this section, whenever the governing board of a school district offering automobile driver training in an adult school or classes for adults determines that such training cannot be conducted effectively wholly within the district's boundaries, it may cause the training to be conducted outside the boundaries of the district.

52512. Classes for adults may be maintained in conjunction with day or evening high schools, day or evening community colleges, day or evening adult schools, or day or evening regional occupational centers.

52513. The governing board of any high school district or unified school district may provide for the maintenance on Saturday and Sunday of classes for adults.

52514. High schools maintained in any state institution for adults or in any city, county, or city and county jail, road camp or farm shall consist only of classes for adults.

52515. No state funds shall be apportioned to any districts on account of the attendance of students enrolled in adult schools unless the courses have been approved by the Department of Education. Approval of courses for grades 13 and 14 shall be given in accordance with the provisions of Section 78200.

52516. The governing board of any school district maintaining an adult school shall have authority with the approval of the Department of Education to establish a prescribed course in elementary subjects appropriate to needs of adults.

52517. No class for adults shall be maintained by any district: (1) if the district receives compensation for such class from any public or private agency, individual or group of individuals, except fees authorized by Section 52612 and apportionments from the state and federal government; or (2) if such classes are not open to the general public; or (3) if the pupils attending such classes are paid for such attendance. The State Board of Education may adopt such regulations as may be necessary to define "payment" and "payment for attendance" as used in this section.

No classes for adults shall be maintained by any district if the cost of such class is paid entirely from federal funds.

52518. No class for adults in dancing or recreational physical education shall be maintained by any district for which the district receives money from the State School Fund.

## Article 2. Use of Hospitals

52530. The governing board of any district offering a nursing program, or related program in the healing arts, either in regular graded classes or in classes for adults, may maintain classes in such a program at hospitals located within or without the district for the purpose of providing the hospital training for students in such classes.

The governing board may purchase liability insurance for the students with district funds.

52531. Anything in this chapter to the contrary notwithstanding, whenever any county or city and county maintains a tuberculosis ward, hospital or sanatorium in another county of this state, the governing board of any school district of the county or city and county maintaining such institution, if authorized to maintain classes for adults, may establish and maintain such classes in such institution for pretuberculous, tuberculous, and convalescent minors and adults, and the attendance of pupils in the classes shall be credited to the district maintaining the classes.

## Article 3. Adult English Classes

52540. Upon application of 20 or more persons above the age of 18 years residing in a high school district who cannot speak, read, or write the English language to a degree of proficiency equal to that required for the completion of the eighth grade of the elementary schools, the governing board of the high school district shall establish classes in English.

52541. Application for classes shall be made in time to permit the board to arrange to meet the expenses of the classes.

52542. The board may establish the classes without demand and with a lesser number of students.

52543. The classes shall be held at least twice a week for a two-hour period.

52544. If the enrollment in any class falls to 10 or less for a one-month period, the governing board may discontinue the class for that year.

## Article 4. Classes in Citizenship

52550. In counties in which the U.S. district courts are located, the superintendent of schools of the county or city and county shall obtain monthly from the clerk of the U.S. district court the names and addresses of all persons filing their declarations of intention to become citizens of the United States or their petitions for naturalization.

52551. The superintendent of schools of the county or city and county, after obtaining the names and addresses of the applicants, shall send a written or printed notice to the applicants, stating that this article authorizes the governing board of any school district to

establish upon application classes in training for citizenship. The form of this notice shall be furnished by the Superintendent of Public Instruction.

52552. Upon application of 25 or more persons desiring training for citizenship and residing in a high school district, the governing board shall establish special classes in training for citizenship. Upon demand the board may establish the classes with a lesser number of applicants.

52553. Application for classes shall be made in time to permit the governing board to arrange to meet the expenses of the classes.

52554. Upon satisfactory evidence that any school district required to do so has failed to establish and maintain classes in training for citizenship, the Superintendent of Public Instruction and county superintendent of schools may withhold 5 percent of state and county apportionments until the district has complied with the provisions of this article.

52555. The course of study in training for citizenship shall consist of the teaching of U.S. history, state and community civics, and the Constitution of the United States, with special reference to those sections in the Constitution which relate directly to the duties, privileges, and rights of the individual, and such allied subjects, including English for foreigners, or activities as will properly prepare the applicants to understand and assume the responsibilities of citizenship.

52556. The classes shall be held at least twice a week for three months. At the close of this period, if the enrollment in any class has fallen to 10 or less for the month, the governing board of the district may discontinue the class for that year.

#### Article 5. Handicapped Adults

52570. The governing board of any school district maintaining secondary schools or the county superintendent of schools, shall have the power, with the approval of the Department of Education, to establish special classes for adults designed to serve the educational needs of handicapped adults. Such classes shall be directed to providing instruction in civic, vocational, literary, homemaking, technical, and general education.

Attendance of handicapped adults in such classes established by the county superintendent of schools shall be included for purposes of apportionments to the county school service fund.

52571. Special classes for handicapped adults may be conducted under the direction of the governing board of the school district in workshop and training facilities provided by nonprofit organizations, or in public school facilities.

52572. The governing board of any school district or the county superintendent of schools authorized by this article to establish special classes for adults designed to serve the educational needs of handicapped adults may contract for the providing of such classes by

any adjacent high school district or unified school district, subject to the approval of the Superintendent of Public Instruction. For purposes of apportionments, the average daily attendance in classes conducted pursuant to the contract shall accrue to and be reported by the district in which such student resides. Any contract entered into pursuant to this section shall be for a term of not to exceed one year but may be renewed or revised and renewed annually.

#### Article 6. Finances

52610. For the purpose of crediting attendance for apportionments from the State School Fund during the fiscal year, "adult" means any person who has attained his 21st birthday on or before (a) September 1st, January 1st, or March 1st of the quarter for which he is enrolled or (b) September 1st or February 1st of the semester for which he has enrolled, and who has enrolled in 10 periods of not less than 40 minutes each per week for high school districts.

Notwithstanding Section 25 of the Civil Code or any other provisions of law, "adults" for purposes of this chapter means persons 21 years of age or older.

52611. For the purpose of crediting attendance for apportionments from the State School Fund during the fiscal year, apprentices enrolled in any classes maintained by high schools pursuant to Section 3074 of the Labor Code shall be classified as regular students.

52612. Except as specified in this section, an adult enrolled in a class for adults may be required by the governing board of the district maintaining the class to pay a tuition for such class. No charge of any kind shall be made for a class in English and citizenship for foreigners or a class in an elementary subject. No tuition charge shall be made for a class designated by the governing board as a class for which high school credit is granted when such class is taken by a person who does not hold a high school diploma. The total of the tuition required and the apportionments from the State School Fund for all attendance in the classes shall not exceed the estimated cost of all such classes maintained.

52613. The governing board of a school district conducting classes for adults may establish an account in a bank for each school of the district in which classes for adults are maintained. The account shall be known as "The Incidental Expense Account of (insert name of school) School of (insert name of district) District." The governing board may establish regulations providing for the collection of an incidental fee from each pupil enrolled in such classes for adults as the governing board may determine. The fee collected from each pupil shall not exceed fifty cents (\$0.50) in any school year. All fees shall be deposited in the account for that school and shall be expended only for (1) materials, services, or supplies for the operation of classes for adults in such school; and (2) activities of

particular benefit to pupils in classes for adults in such school.

For the purposes of Section 52612, and Sections 52613 to 52615, inclusive, classes for adults maintained in connection with a school shall be deemed to be maintained in such school.

52614. The governing board of the district shall designate an employee or employees of the district to have custody of the incidental expense account, or accounts, who shall be responsible for the payment into the account, or accounts, of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes.

52615. The regulations of the governing board may provide for the sale of materials purchased from the incidental expense account to pupils in classes for adults, for use in connection with such classes. The proceeds of all such sales shall be deposited in that account and shall be available for the purposes of that account.

## CHAPTER 11. MISCELLANEOUS

### Article 1. School Farms

52700. The governing board of any school district may, for the purpose of providing practical instruction in agriculture, establish one or more school farms for any one or more of the schools of the district whenever in its judgment it is advisable to do so.

52701. The cost of purchasing and equipping a school farm and all other costs not met from the receipts of the operation of the farm shall be a charge against the funds of the school district.

52702. The governing board of the district may provide for the general supervision of the farm and the cost of the supervision may be a charge against the funds of the district.

52703. All moneys received from the sale of produce, livestock and other products of a farm shall be paid into the county treasury to the credit of the general fund of the district.

52704. The governing board of the school district may, as an alternative to the procedure provided for in Section 52703, establish an account for each such farm established in the district, or for all such farms established by the district, in one or more banks to be known as "The School Farm Account" of (insert name of district) District. If the account is established for one of several farms, it shall be known as "The School Farm Account of (insert name of school) School of (insert name of district) District." All receipts of the school farm, or farms, derived from the sale of produce, livestock, and other products, may be withdrawn from the general fund in the same manner as other moneys may be withdrawn from funds of the district and deposited in the account for expenditure for the operation and maintenance of the farm, or farms, in accordance with the direction of the governing board.

52705. The governing board may designate an employee or

employees of the district to have custody of the account or accounts established under Section 52704, who shall be responsible for the payment into the account or accounts of all moneys received for or to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board may prescribe.

52706. The governing board may buy feed, livestock, and materials and supplies for a farm and may sell produce, livestock and other products of a farm in accordance with rules and regulations adopted by the board notwithstanding any provision of this code in conflict with such rules and regulations.

## Article 2. Patriotic Exercises

52720. In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

In every public secondary school there shall be conducted daily appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy such requirement. Such patriotic exercises for secondary schools shall be conducted in accordance with the regulations which shall be adopted by the governing board of the district maintaining the secondary school.

## PART 29. PROGRAMS FOR DISADVANTAGED PUPILS

### CHAPTER 1. EDUCATIONALLY DISADVANTAGED YOUTH PROGRAMS

54000. It is the intent of the Legislature to provide quality educational opportunities for all children in the California public schools. The Legislature recognizes that because of differences in family income, differing language barriers, and pupil transiency, differing levels of financial aid are necessary to provide quality education for all students.

54001. From the funds appropriated by the Legislature for the purposes of this chapter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this chapter and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing education programs for pupils who qualify economically and educationally in preschool, kindergarten, or any of grades 1 through 12, inclusive. Nothing in this chapter shall in any way preclude the use of federal funds for educationally disadvantaged youth. Districts

which receive funds pursuant to this chapter shall not reduce existing district resources which have been utilized for programs to meet the needs of low-income students.

54002. Maximum apportionments allowable to school districts shall be determined by the following factors:

(a) An index of "potential impact of bilingual-bicultural pupils" determined by dividing the percent of pupils in the district with Spanish and Oriental surnames, and Indian pupils, as determined by the annual ethnic survey conducted by the Department of Education, by the statewide average percentage of such pupils for unified, elementary, or secondary districts, as appropriate.

(b) A ratio of the district's "index of family poverty," defined as the district's Elementary and Secondary Education Act, Title I entitlement, divided by its average daily attendance in grades 1 through 12, or any thereof maintained, divided in turn by the state average index of family poverty for unified, elementary, or secondary districts, as appropriate.

(c) A ratio of the district's "index of pupil transiency," as computed from the relationship between the district's average daily attendance and its total annual enrollment, divided by the state average index of pupil transiency for unified, elementary, or secondary districts, as appropriate.

The district's total maximum apportionment under this chapter shall be determined by computing the product of (1) one-third the sum of the above three factors, except that if the resulting figure is higher than 2, the resulting figure shall be deemed to be 2, and if the resulting figure is lower than 1 no entitlement shall be computed for such a district, unless the district had an average daily attendance in excess of 60,000 for the 1972-73 school year and has more than 8,000 pupils receiving aid for dependent children, in which case the resulting figure shall be deemed to be 1; (2) the number of pupils receiving aid for dependent children support; and (3) a constant amount of three hundred dollars (\$300), or such amount as the Superintendent of Public Instruction may determine so that the sum of all allocations will not exceed the funds appropriated by the Legislature for the purposes of this chapter.

No allocation shall be made to a school district whose index computed pursuant to item (1) is less than 1, whose average daily attendance for the 1972-73 school year was more than 60,000, and which had more than 8,000 pupils receiving aid for dependent children, unless sufficient funds have been appropriated so that the Superintendent of Public Instruction is not required, because of insufficient funds, to reduce the allocation to other districts which receive such funds below the allocation for the 1973-74 fiscal year.

54003. In approving programs under this chapter, the State Board of Education shall give due consideration to the effectiveness of the program and shall not continue in operation any program that, upon evaluation, has been shown to be of low effectiveness and which has only limited possibility of improved effectiveness.

For the fiscal year 1974-75 and for each year thereafter, districts which demonstrate a high degree of program effectiveness shall continue to receive their computed entitlements. Districts which demonstrate low levels of program effectiveness may continue to receive their computed entitlements, but the Superintendent of Public Instruction shall reduce the entitlements due such districts if he determines that such programs have limited possibilities of improved achievements.

54004. The Superintendent of Public Instruction shall apportion the funds available for programs in accord with procedures specified in this chapter and policies which may be adopted by the State Board of Education. Funds shall be allocated to each district within its entitlement based upon a plan submitted by the district to the Superintendent of Public Instruction, and approved by the State Board of Education. The plan shall include (1) an explicit statement of what the district seeks to accomplish, (2) a description of the program and activities designed to achieve these purposes, and (3) a planned program of annual evaluation, including a statement of the criteria to be used to measure the effectiveness of the program.

54005. The State Board of Education shall adopt regulations setting forth the standards and criteria to be used in the administration, monitoring, evaluation, and dissemination of programs submitted for consideration. An amount not to exceed 1 percent of the total appropriation for the purposes of this chapter shall be retained by the Department of Education for these purposes. Funds appropriated for the purposes of this chapter not allocated as previously specified shall be allocated by the State Board of Education to promote the intent of this chapter to provide education programs to as many eligible pupils as possible and to stimulate the development, implementation, and evaluation of innovative programs.

54006. The Superintendent of Public Instruction shall submit annually to the Governor and to each house of the Legislature a report evaluating the programs established pursuant to this chapter, together with his recommendations concerning whether the same should be continued in operation.

54007. In approving projects under the "educational needs factor formula," as described above, the Superintendent of Public Instruction, with the concurrence of the Director of Finance, may, upon the request of the applicant district, designate a portion of the district's entitlement which may be expended for noninstructional costs, including, but not limited to, costs for vandalism, security, and insurance. In no event, shall the amount of funds in the aggregate designated for such purposes for all districts in the state exceed two million dollars (\$2,000,000).

CHAPTER 2. SPECIAL ELEMENTARY SCHOOL READING  
INSTRUCTION PROGRAM

Article 1. General Provisions

54100. This chapter may be cited as the Miller-Unruh Basic Reading Act of 1965.

54101. It is the intent and purpose of the Legislature that the elementary school reading instruction program provided for by this chapter shall be directed to the prevention of reading disabilities, and the correction of reading disabilities at the earliest possible time in the educational career of the pupil. The instruction program shall be provided in grades 1, 2, and 3 in the elementary schools. The instruction program may be provided in kindergarten if the governing board of a school district, by resolution, acts to make the program so applicable. With respect to any district in which the instructional program has been made applicable to kindergarten, the units of average daily attendance in kindergarten shall in no manner be utilized in the computation of the basic quota of specialist reading teachers, computation of allowances for specialist reading teachers, establishment of a system of priorities, or computation for the salary allotment for professional school librarians, nor shall any kindergarten teacher be eligible to apply for a scholarship grant for teachers of reading. It is the intent of the Legislature that the applicability of the instructional program to kindergarten shall in no manner affect the school districts' entitlements for the program authorized by this chapter or shall in no manner affect the statewide priorities established with respect to the program authorized by this chapter.

It is the further intent of the Legislature that the reading program in the public schools be of high quality, and that the program be designed to permit early development of reading skills, and the early correction of reading disabilities. The Legislature recognizes that early development of reading ability enhances the opportunity of each pupil for success in school and for success in a career upon leaving school. The Legislature further recognizes that to achieve its intent and purpose it will be necessary to provide means to employ teachers trained in the teaching of reading, to provide incentives to encourage such training, and to stimulate the establishment and maintenance of school libraries. To carry out its intent and purpose, the Legislature has enacted this chapter to provide salary payments for specialist teachers in reading, scholarships to encourage the development of skills in the teaching of reading, and salary payments for the employment of professional librarians in school districts. It is also the intent of the Legislature that the provisions of this chapter shall be administered to provide funds and services first to those school districts and to the schools in such districts where the need for reading instruction is greatest and the financial ability of the district to provide it is least. This program is voluntary and any school district

may participate or may decline to participate. If a district participates, it shall participate fully with respect to those schools in the district in which the program is established.

54102. During the 1966-67 school year, and thereafter, if a school district is unable to participate fully in the reading program established under this chapter on a school or district basis because of its inability to employ enough specialist teachers to fully meet the basic quota of certificated employees to be appointed specialist teachers as provided in Sections 54140 and 54141, the governing board of the district may request approval of the Superintendent of Public Instruction for participation in the program on a reduced basis. Such approval may be granted by the Superintendent of Public Instruction if he determines that:

(a) In districts having more than one school, all reasonable efforts are made to concentrate available teachers in the school or schools of the district where the need for the program is the greatest so that such schools may benefit from full participation in the program so far as possible.

(b) For the 1966-67 school year, the applicant district or school employs at least 30 percent of the basic quota of certificated employees to be appointed specialist teachers as computed under the provisions of Sections 54140 and 54141.

(c) For the 1967-68 school year, and thereafter, the applicant district or school employs at least 30 percent of the basic quota of certificated employees to be appointed specialist teachers as computed under the provisions of Sections 54140 and 54141.

54103. The State Board of Education shall have the power to adopt and promulgate all rules and regulations necessary to the effective administration of this chapter, including but not necessarily limited to those specifically required to be adopted by particular provisions of this chapter.

54104. As used in this chapter:

(a) "Specialist teacher" shall mean a person holding a credential as a specialist teacher in reading, issued by the Commission for Teacher Preparation and Licensing, and employed by a school district for the duties listed in Section 54146.

(b) "Average daily attendance" shall, except as otherwise specifically provided, mean average daily attendance during the preceding fiscal year.

54105. The State Board of Education shall prepare a consolidated application form for use by each school district making application for appointment of a specialist teacher. The consolidated application form shall include any request for funds under Titles I, II, and III of the Elementary and Secondary Education Act of 1965, as amended, the Education Improvement Act of 1969 (Article 1 (commencing with Section 54600) of Chapter 9 of this part), the Professional Development and Program Improvement Act of 1968 (Article 10 (commencing with Section 44630) of Chapter 3 of Part 25 of Division 3 of this title), the Special Teacher Employment Programs (Article

5 (commencing with Section 54480) of Chapter 4 of this part), and any other state or federal act which provides funds to assist in the reading program for grades 1, 2, and 3.

54106. Any school district making an application for appointment of a specialist teacher shall use the consolidated application form to make application for funds under any of the acts specified in Section 54105 that will be used to assist in the reading program in grades 1, 2, and 3. The application form shall be accompanied by a single coordinated project or program for all the funds for which application is made, as well as the funds of the district devoted to the project or programs.

54107. The coordinated project and program shall be approved as required by law and regulations adopted by the State Board of Education.

54108. The coordinated project or program shall include a specialist teacher, and any other educational component that is approved by the State Board of Education, including, but not limited to, teacher aides, tutors, interns, diagnosticians, nonconsumable and consumable materials and equipment, and administration, supervision or coordination. Each coordinated project or program shall include provisions for evaluation.

54109. If there are not sufficient funds to fully fund the SHARE programs established pursuant to Chapter 1199 of the Statutes of 1970 and programs operated under this chapter as budgeted for the 1971-1972 fiscal year, the Superintendent of Public Instruction shall, insofar as necessary, reduce the amounts allocable under the programs conducted pursuant to this chapter according to the following schedule of priorities:

1. He shall first reduce the amount to be expended for scholarship grants for teachers under Article 5 (commencing with Section 54170) of this chapter.

2. He shall next reduce the amount to be expended for allotments for professional school librarians under Article 6 (commencing with Section 54180) of this chapter.

3. He shall next reduce the amount to be expended for salary increases under Section 54148.

## Article 2. Specialist Reading Teacher

54120. The governing board of any school district maintaining grades 1, 2, and 3 in elementary schools may, in writing, nominate to the Commission for Teacher Preparation and Licensing qualified certificated employees of the district for the position of specialist teacher. The nominations shall be based upon the observed performance of the teacher in instructing elementary school pupils to read, and the written nominations to the commission shall so attest.

Any certificated employee of a school district who has not been so nominated may, in writing, petition the commission to be appointed

a specialist teacher. Thereupon, the commission shall appoint a panel of three persons, selected on the basis of criteria established by rules and regulations of the commission, who shall observe the performance of the employee in the classroom, and either nominate the employee for the position of specialist teacher or deny such nomination.

54121. Each certificated employee nominated for the position of specialist teacher shall be notified of the time and place at which a written examination will be held to determine whether such employee is qualified for appointment as a specialist teacher.

54122. The Commission for Teacher Preparation and Licensing shall designate a written examination to be administered by the Department of Education to each person nominated for the position of specialist teacher. The examination shall be one designed to test the knowledge of the nominee concerning the various approaches and techniques which have been determined by competent authority to be most effective in imparting reading instruction to young school pupils, and concerning the appropriate selection of various techniques to meet the requirement of different pupils. Such an examination shall be administered on a statewide basis at least once in each school year. For such purposes the commission may select an examination prepared by any competent public or private person, organization, or agency.

54123. Certificated school district employees nominated pursuant to Section 54120, who are determined by the department to have passed the examination prescribed by Section 54122, shall forthwith be granted certificates entitling them to accept employment as specialist teachers in reading.

54124. As an alternative to the examination and nomination procedure provided for by Sections 54120, 54121, 54122, and 54123, certificated school district employees qualified under this section may be examined for possible selection as specialist teachers in reading by a specialist teacher selection committee. A specialist teacher selection committee may be appointed by the governing board of any school district which maintains elementary schools. It shall be comprised of five members, including one college or university authority in the field of reading instruction, three district or county office personnel knowledgeable in reading instruction and in areas of human relationships, and one district administrator or supervisor. The reasonable and necessary expenses of the members of the committee shall be paid by the school district establishing the committee. The committee shall conduct appropriate proceedings to inquire into the qualifications of nominees and make determinations concerning whether or not individual nominees are qualified for selection as specialists teachers in reading. Each nominee shall, in order to be selected as a specialist teacher in reading meet the following minimum requirements:

(a) Completed two years of successful teaching in the primary grades, kindergarten and grades 1 to 3, inclusive.

(b) Fully credentialed by the State of California to teach in the primary grades, kindergarten and grades 1 to 3, inclusive.

(c) Successfully completed the following college or university courses:

(1) A basic course in the teaching of elementary school reading.

(2) A basic course in the diagnosis and remediation of reading disabilities.

(3) A course in directed clinical practice in the remediation of reading disabilities. Such course may be concurrent with the first year as a specialist teacher in reading.

54125. Certificated school district employees nominated pursuant to Section 54124, shall forthwith be granted certificates entitling them to accept employment as specialist teachers in reading.

### Article 3. Employment of Specialists

54140. Each school district which maintains grades 1, 2, and 3 at the elementary level shall compute a basic quota of certificated employees to be appointed specialist teachers, of one such employee for each 125 units of average daily attendance in grades 1, 2, and 3 and any additional fraction thereof; provided that:

(a) With respect to districts maintaining more than one school, each of which has an average daily attendance in grades 1, 2, and 3 of less than 50, the quota shall be one such employee for each 100 units of the average daily attendance in grades 1, 2, and 3 in those schools.

(b) With respect to all school districts in a county with an average daily attendance in grades 1, 2, and 3 of less than 50, the quota shall be one specialist teacher for each 100 units of average daily attendance in grades 1, 2, and 3 in those districts.

54141. For the 1967-68 school year and school years thereafter, for any school district in which thirty percent (30%) or more of the first grade pupils received scores falling below the first quartile of scores established on a statewide basis for the tests administered during the preceding school year pursuant to Section 60640, the basic quota established pursuant to Section 54140 shall be increased by one specialist teacher for each 300 units of average daily attendance in grades 1, 2, and 3, and fractional part thereof, maintained by the district.

For the 1967-68 school year and school years thereafter any school district in which forty percent (40%) or more of the first grade pupils received scores falling below the first quartile of scores established on a statewide basis for the tests administered during the preceding school year pursuant to Section 60640, the basic quota established pursuant to Section 54140 shall be increased as ordered by the Department of Education following an investigation of the circumstances of the district.

54142. Each school district maintaining grades 1, 2, and 3 may

employ specialist teachers in number not to exceed one hundred ten percent (110%) of the basic quota established for the district pursuant to Sections 54140 and 54141.

54143. Persons serving in the employ of school districts as specialist teachers under this chapter shall be considered as classroom teachers for purposes of all laws dealing with permanent status of certificated employees in the employment of school districts.

Such a specialist teacher employed by a school district may elect to serve for a period of not to exceed two consecutive school years in the employ of other school districts as a specialist teacher, in which case the district of the teacher's regular employment shall afford him a leave of absence for such period, and the teacher shall retain all personnel rights accumulated by him in the employ of such district of regular employment. Such employment with another district shall be pursuant to a written contract for a term of one school year, which contract may be renewed for an additional school year.

54144. A specialist teacher employed by a school district with an average daily attendance in grades 1, 2, and 3 of less than 50, shall serve under the direction of the county superintendent of schools.

54145. The governing board of a school district employing specialist teachers may employ qualified teachers who shall serve under the direction of the specialist teachers in instructing pupils in reading.

54146. Specialist teachers employed by a school district shall be relieved of all regular teaching and administrative responsibilities and shall devote their full time in performance of the following responsibilities, which shall be directed to training pupils to attain reading ability essential to success in studies to be undertaken beyond the grade 3 level:

(a) Supplementing the reading instruction otherwise provided in regular classes for all pupils in grade 1.

(b) Providing instruction to small groups of pupils, and to individual pupils, in grades 2 and 3 who have been determined to have reading disabilities.

(c) Administering reading tests to be given pupils in grades 2 and 3 under Article 3 (commencing with Section 60640) of Chapter 5 of Part 33 of this division.

54147. School districts shall establish in-service training programs to provide an opportunity for elementary school teachers of the district to observe on a regular basis the instructional techniques of the specialist teachers.

54148. The annual salary of a specialist teacher, employed as such by a school district for a school year, shall be increased by two hundred fifty dollars (\$250) over that otherwise payable to him under his regular contract of employment with the district in which he is regularly employed.

Such sum shall be paid by the school district in a lump sum payment to the specialist reading teacher, no later than June 30 of

each fiscal year, and the warrant on which the payment is made shall clearly identify the purpose for which the payment is being made with words to the effect of: "Special Stipend for State Basic Reading Program" appearing on the face of the warrant. Partial lump-sum payments for specialist reading teachers employed for a portion of the school year shall be paid no later than 30 days after the specialist teacher leaves the employ of the district.

#### Article 4. Allowances for Specialists

54160. Beginning with the 1966-67 fiscal year and each fiscal year thereafter, a school district which maintains grades 1, 2, and 3, may apply for an allowance for the employment of specialist teachers. Application shall be made in accordance with rules and regulations adopted by the Superintendent of Public Instruction on forms that he shall furnish.

For programs to be conducted during the 1969-70 fiscal year and each fiscal year thereafter, such applications shall be filed with the Superintendent of Public Instruction on or before July 1 in order to be eligible for an allowance during the year.

54161. Pursuant to its authority under Section 54103, the State Board of Education shall adopt, by rules and regulations, minimum standards of course content for basic reading programs authorized by this chapter, and criteria to be used by the Superintendent of Public Instruction in approving district applications for funds pursuant to Section 54160. No allowance for a special reading program shall be made to a school district unless the Superintendent of Public Instruction approves the district application and certifies that the minimum standards and criteria of the State Board of Education are met by the district.

Beginning with the 1969-70 fiscal year and in each fiscal year thereafter, the Superintendent of Public Instruction shall notify each district of his action on the application, including the estimated allowance to be provided based upon the application filed pursuant to Section 54160. Such notice shall be given to each district prior to September 1 following the receipt of the application. The total of the estimated allowances determined pursuant to this section for all applicant districts shall not exceed the funds appropriated therefor.

The superintendent shall not disapprove any application on the basis of the methodology of providing basic reading instruction pursuant to this chapter which the school district has selected.

54162. Allowances under this article shall be made by the Superintendent of Public Instruction from funds appropriated therefor by the Legislature. The allowances shall be made as early as practicable in the fiscal year and upon order of the Superintendent of Public Instruction the State Controller shall draw his warrants upon the money appropriated, in favor of the eligible districts in the amounts ordered.

54163. Allowances under this article shall be made by the

Superintendent of Public Instruction in accordance with a system of priorities that he shall by rule and regulation adopt, designed to carry out the intent and purpose of the Legislature stated in Section 54101.

The system shall be designed to give priority to districts in the following order:

(a) First, to insure that the districts participating in the program during the preceding school year, which continue to be eligible, will not be required to reduce programs below the level of the preceding year.

(b) Second, to insure that applications for expansion of programs and applications for new programs in eligible schools be considered on a priority basis in terms of the percentage of pupils in grade 1 who received scores which fell below the first quartile of scores established on a statewide basis for the tests administered during the preceding school year pursuant to Section 60640.

Allowances computed for a district that receive only basic aid in the preceding fiscal year shall be reduced by one-half.

The Superintendent of Public Instruction shall make no allowances in any year in excess of the amount appropriated by the Legislature for the purposes of this chapter.

54164. The Superintendent of Public Instruction shall by rule and regulation establish a procedure for each district provided an allowance pursuant to this article to report, on or before April 1 of each year, the program actually maintained. If the Superintendent of Public Instruction finds that the school district failed to conduct the program in full or in part as previously approved, the allowances shall be corrected accordingly.

54165. The Superintendent of Public Instruction shall allow to each district eligible to receive an allowance under this article an amount equal to the total of salaries to be paid specialist teachers employed by the district computed according to Section 54166 and the amounts computed as salary allotments for professional school librarians.

54166. The allowance for salaries of specialist reading teachers to each district shall be computed by multiplying the number of specialist reading teachers employed by such district by an amount equivalent to the statewide average salary, as determined by the Superintendent of Public Instruction, paid elementary teachers during the preceding fiscal year plus a sum of two hundred fifty dollars (\$250) per teacher. The salary allowance so computed shall not be more than the actual salary paid by the district for the services of the specialist reading teacher.

#### Article 5. Scholarship Grants

54170. Any regularly credentialed teacher in grades 1, 2, or 3 may, pursuant to this article, apply for a scholarship grant for teachers of reading. Each scholarship grant shall be in the amount of two hundred fifty dollars (\$250).

54171. Scholarship grants shall be made by the State Board of Education upon recommendation of the Superintendent of Public Instruction in accordance with rules and regulations adopted by the State Board of Education. The scholarship grants may be used to meet expenses of the grantee attending any regular session or summer session conducted by an institution accredited for teacher training purposes by the State Board of Education and enrolling for credit in courses designed to improve the teaching of reading that have been approved by the State Board of Education.

54172. The number of scholarship grants awarded by the State Board of Education in the 1966-67 fiscal year shall not exceed the number of specialist teachers in reading for whom allowances were provided during that year to school districts pursuant to Section 54165. In the 1967-68 fiscal year, the number of scholarship grants awarded shall not exceed one-half of the number of specialist teachers in reading for whom allowances were provided during that year. In the 1968-69 fiscal year and each fiscal year thereafter, the number of scholarship grants awarded shall not exceed one-fourth of the number of specialist teachers in reading for whom allowances were provided during each of such respective fiscal years.

54173. Scholarship grants awarded shall be paid from the amounts appropriated by the Legislature for the purposes of this chapter.

#### Article 6. Allotments for Librarians

54180. A salary allotment for a professional school librarian shall be computed by the Superintendent of Public Instruction whenever he determines with respect to any district that:

1. The district has employed 30 percent of its basic quota of specialist reading teachers, and
2. A librarian holding a credential authorizing service as a librarian pursuant to Sections 44868 and 44869 is employed full time in a school or schools in which one or more specialist reading teachers are employed.

The salary allotment for the professional school librarian shall be five hundred dollars (\$500) multiplied by the number of specialist teachers in reading employed full time in the school. The maximum allotment so authorized for a school district shall not exceed the total cost of salaries of librarians who come within the provisions of this section.

### CHAPTER 3. MATHEMATICS IMPROVEMENT PROGRAMS

#### Article 1. General Provisions

54300. It is the intent of the Legislature that the provisions of this chapter shall be administered to provide funds and services first to those school districts, and to particular schools within school districts,

for which the most comprehensive plans have been developed to evaluate the effectiveness of the programs authorized by this chapter, and secondly to those school districts in which the need for mathematics instruction is greatest and the financial ability of the districts to provide it is least.

54301. The programs provided for by this chapter shall be afforded for pupils in grades 1 to 12, inclusive. The programs shall be administered under the direction of the Superintendent of Public Instruction and pursuant to rules and regulations of the State Board of Education which may be adopted to implement the provisions of this chapter. The rules and regulations of the State Board of Education shall prescribe minimum standards and criteria for all programs, and shall provide for the submission of periodic reports by all school districts participating in programs.

The programs authorized by this chapter may be consolidated or conducted in conjunction with other mathematics programs being conducted in the public schools, if the Superintendent of Public Instruction determines that evaluation of the programs authorized by this chapter is not rendered impracticable.

The Department of Education shall enter into a contract with the Regents of the University of California by December 1, 1970, subject to the concurrence of the regents, for the recruitment, training, designation, and supervision of the mathematics specialists employed in the mathematics specialist program provided for pursuant to Section 54317. The cost of such contract shall not exceed fifty thousand dollars (\$50,000) and shall be allocated from funds appropriated by Item 265 of the Budget Act of 1970.

Mathematics specialists to be employed pursuant to Section 54317 shall be selected by the school districts based upon a list of teachers of proven mathematical attainment, submitted by the Regents of the University of California.

54302. The State Board of Education shall select achievement tests to be administered to pupils who are participating in programs authorized by this chapter. The selection of such tests shall be with the advice of the Advisory Committee on Educational Research in Basic Educational Programs.

54303. In addition to any tests otherwise required to be administered to pupils by this chapter, the State Board of Education, on the advice of the Advisory Committee on Educational Research in Basic Educational Programs, shall develop an achievement test in mathematics for grades 3, 6, and 8. The test shall measure the degree to which mathematics programs in the public schools meet the objectives of the revised outline of the mathematics curriculum developed by the Advisory Committee on Educational Research in Basic Educational Programs.

This test may be designated by the State Board of Education for use in studies to evaluate state-recommended course content as authorized by Section 60630 and for other appropriate assessment purposes.

## Article 2. Financing Programs

54340. The tests selected by the State Board of Education for purposes of the experimental programs in mathematics shall be provided and distributed by the Superintendent of Public Instruction free of charge, as needed, to school districts participating in the programs.

54341. Beginning with the 1968-1969 fiscal year and each fiscal year thereafter, a school district which maintains elementary grades and participates in the mathematics specialist program may apply for an allowance for the employment of mathematics specialist teachers. Application shall be made in accordance with rules and regulations adopted by the Superintendent of Public Instruction on forms that he shall furnish. No allowance for a mathematics specialist program shall be made to a school district unless the Superintendent of Public Instruction approves the district application and certifies that standards, requirements and criteria of the State Board of Education are met by the district.

54342. Allowances for the mathematics specialist program shall be made by the Superintendent of Public Instruction from funds appropriated therefor by the Legislature. The allowances shall be made as early as practicable in the fiscal year.

54343. Allowances for the mathematics specialist program shall be made by the Superintendent of Public Instruction in accordance with a system of priorities that he shall by rule and regulation adopt, designed to carry out the intent and purpose of the Legislature stated in Section 54300. As a basis for such system of priorities, the Superintendent of Public Instruction, upon receipt of all applications for a fiscal year, shall determine and use the relative financial ability of each applicant district as measured by the assessed valuation per unit of average daily attendance in the district. The Superintendent of Public Instruction may use additional factors as a basis for a system of priorities as long as such factors are not in conflict with the intent and purpose of the Legislature.

The Superintendent of Public Instruction shall make no allowances in any year in excess of the amount appropriated by the Legislature for the purposes of this chapter.

54344. The Superintendent of Public Instruction shall allow to each district eligible to receive an allowance for the mathematics specialist program an amount equal to the total of salaries to be paid mathematics specialists employed by the district, diminished by the product of the ratio which the assessed valuation per unit of average daily attendance during the preceding fiscal year in kindergarten and grades 1 through 8, inclusive, in the district bears to the assessed valuation per unit of such average daily attendance in the state and one-half of the total of salaries to be paid mathematics specialists employed in the district.

54345. From funds appropriated therefor by the Legislature, the Superintendent of Public Instruction shall pay the costs of the

regional in-service training programs for specialized teachers in mathematics including the salaries of persons employed to provide instruction and training. From such funds teachers in attendance shall be reimbursed for living and traveling expenses necessarily incurred for such purposes, and shall be paid a nominal stipend. All expenses incurred for training of the supervisors or administrators, or both, shall be borne by the districts.

54346. From funds which may be appropriated therefor, the Superintendent of Public Instruction shall reimburse school districts for the expenses incurred, pursuant to contractual arrangement, in securing the participation and cooperation of colleges and universities in providing the accelerated instructional program in mathematics in grades 7 to 12, inclusive.

54347. The State Board of Education and the Superintendent of Public Instruction shall take all necessary actions and steps to ensure that all federal funds which may be made available for any of the experimental pilot programs provided for under Article 2 (commencing with Section 54310) of this chapter shall be received and utilized for such purposes.

54348. All disbursements of state funds under this article shall be made by warrants drawn by the State Controller upon order of the Superintendent of Public Instruction.

#### CHAPTER 4. COMPENSATORY EDUCATION PROGRAMS FOR DISADVANTAGED CHILDREN

##### Article 1. General Provisions

54400. This chapter may be cited as the McAteer Act.

54401. The Legislature finds and declares that because of home, community, environmental and other conditions which give rise to language, cultural and economic disadvantages, the latent talents of many minors in the elementary and secondary schools in the state remain undiscovered and are not adequately developed by the general educational programs afforded by the public school system and private schools or school systems. It is the intent and purpose of the Legislature to encourage the establishment and development, by local officers and agencies of the public school system, of programs directed to identifying those pupils affected by language, cultural, and economic disadvantages who are potentially capable of completing the regular courses of instruction leading to graduation from the public elementary and secondary schools, and by special services, techniques, and activities to stimulating their interest in intellectual and educational attainment.

It is further recognized that to combat effectively the evils of such disadvantage a comprehensive, communitywide and statewide cooperative effort will be required together with a marshaling of all public and private resources and aids which may be useful in the endeavor. Securing cooperation, unity of action, and the

concentration and effective direction of available outside resources and aids, public and private, should be an essential element of the programs for compensatory education, at both the state and local levels.

The Legislature finds that such special undertakings are essential to the conservation and development of the cultural, economic and intellectual resources of the state and nation. The provisions of this chapter shall be liberally construed to carry out these intents and purposes.

Nothing in this chapter shall be construed to sanction, perpetuate or promote the racial or ethnic segregation of pupils in the public schools.

54402. For purposes of this chapter, a "disadvantaged minor" is a minor who is potentially academically able but scholastically underachieving, and must compensate for inability to profit from the normal educational program. He is a minor who:

(a) Is three years of age or more, but under 18 years of age and has not graduated from high school.

(b) Is potentially capable of successfully completing a regular educational program leading to graduation from the elementary or secondary school in which he is enrolled or required to be enrolled.

(c) Is, because of home and community environment, subject to such language, cultural, economic, and like disadvantages as will make improbable his completion of the regular program leading to graduation without special efforts on the part of school authorities, over, above, and, in addition to those involved in providing the regular educational programs, directed to the positive stimulation of his potential.

54403. A "program of compensatory education" is an undertaking by any school district maintaining any of grades kindergarten through 12, in the form prescribed by Article 2 (commencing with Section 54420) of this chapter, which is over, above, and in addition to the regular educational programs of the district, having the purpose of providing positive stimulation of the intellectual abilities of disadvantaged minors, and which embodies a positive plan for the identification of such minors. Participation in a program of compensatory education under this chapter shall not preclude an individual's participation in any other potentially beneficial program which may be offered in the public school system or otherwise.

54404. Each county superintendent of schools is authorized, upon request, to provide consultative and coordination services for the school districts under his jurisdiction which have established programs of compensatory education under this chapter. Such activity shall be financed through the county school service fund, and shall be subject to budget review pursuant to Section 14050.

54405. (a) The State Board of Education may establish programs of the following types:

(1) Establishment of new curricula or modification of existing

curricula in connection with the education and training of prospective teachers, to incorporate instruction in methods and techniques developed by competent authorities designed to enable teachers effectively to teach disadvantaged children.

(2) Research and consultative work projects undertaken to assist state and local public school agencies in carrying out their responsibilities under this chapter.

(3) Independently, or in cooperation with any public or private agency or organization, engaging in research and development undertakings directed to overcoming disadvantage, together with related activities involving evaluation, demonstration and dissemination of findings having to do with programs of compensatory education.

(b) It is the intent and aim of the Legislature that the University of California and the California State University and Colleges participate to the extent practicable with local public school agencies and the State Board of Education in their endeavors under this chapter. It is recommended that greater attention be devoted in the training of teachers to their preparation in the techniques and skills required to cope with the problems of disadvantaged children at the preschool as well as the elementary and secondary level. The university and the state colleges are urged to participate at the local level in the programs being administered by the local public school authorities and agencies, and to provide all technical and personnel services practicable.

54406. All compensatory preschool programs operated by school districts, regardless of source of funds, shall be subject to the regulations of the State Board of Education. The State Board of Education is authorized to establish standards for all compensatory preschool programs.

54407. The governing board of a school district, in its application, may request waiver of the provisions of any section or sections of this code for any compensatory education program if such waiver is necessary to establish and operate a program for low-income children. The need for a waiver shall be explained and justified in the application. The Superintendent of Public Instruction, at the discretion and upon recommendation of the Director of Compensatory Education, with the approval of the State Board of Education, may grant, in whole, or in part, any such request.

## Article 2. Compensatory Education

54420. The purpose of this article is to establish criteria to guide local school districts in making applications for federal funds under the Elementary and Secondary Education Act of 1965 as accepted in Sections 12400, 12402, 12403, 12404, Article 4 (commencing with Section 12030) of Chapter 1 of Part 8 of Division 1 of Title 1, or any state funds provided specially for the purposes of this chapter.

These criteria shall apply to the extent that they do not conflict

with the provisions of the Elementary and Secondary Education Act of 1965 or administrative regulations promulgated under that act.

54421. Each application of a local school district for federal funds or state funds shall include a comprehensive compensatory education plan which shall demonstrate that the district has fully utilized all other sources of funds, and the assistance of all volunteer aid offered by individuals and public and private organizations providing assistance for similar educational endeavors, and has effectively coordinated the same. This plan should emphasize a preventive program aimed at the child between the ages of three years and eight years, and have an ultimate goal of teaching the child to read, awakening the child's interest in learning, giving the child a sense of success in school achievement, preventing the child's alienation from the school, and preventing his possible early departure from school. It shall also include remedial programs for older children. Expenditures should be directed to schools with large concentrations of educationally disadvantaged children. If the situation involves disadvantaged children who speak English as a second language, any programs should include early English language instruction, and the use of teachers, teachers' aides or volunteers who are proficient in the child's primary language, and in-service training for teachers in that language.

54422. For purposes of applications for federal funds a plan should be comprehensive in scope, and may include any or all of the program components set out below.

The State Board of Education shall act, upon recommendation of the Advisory Compensatory Education Commission, to establish a priority listing of the following program elements which shall be used in the approval of school district plans to determine those elements which shall be emphasized on a statewide basis:

(a) Reduction of ratios of pupils to teachers, directed specifically to enabling more individual attention to be given to disadvantaged pupils.

(b) Special efforts in the area of reading instruction, including the employment of additional teachers, special reading teachers, teacher aides, and volunteer aides. Special reading programs authorized pursuant to this subdivision shall be conducted pursuant to standards established under Chapter 2 (commencing with Section 54100) of this part, Article 3 (commencing with Section 60640) of Chapter 5 of Part 33 of this division.

(c) Preschool programs provided through the use of either school facilities, other public or private facilities, or any combination thereof, for children three years of age or older, involving intensive parent participation, established pursuant to standards prescribed by the State Board of Education.

Preschool programs authorized pursuant to this subdivision shall be conducted pursuant to the educational standards established by the State Board of Education under Section 8253.

(d) In-service professional study involving instruction and

orientation of school district personnel to enable them to more effectively deal with disadvantaged students.

(e) School-home cooperation, including home visitation, parent education and participation, parent-teacher conferences utilizing, wherever necessary, bilingual interpreters.

(f) Cultural enrichment including the use of field trips, special speakers, motion pictures, records, library programs, concerts and other means which serve to broaden the educational and cultural experience of the students.

(g) After-school tutoring programs utilizing the services of qualified college and university students and volunteers from the community.

(h) Remedial and corrective programs directed to enhancing the pupils' interest and competence in the English language, including extended remedial reading programs, special speech and oral programs, and the teaching of English as a second language, as, for example, where Spanish-speaking children are involved.

(i) Evaluation, testing, and consultation, involving the formulation of evaluation standards which are as rigorous as feasible under the circumstances; the yearly administration of comprehensive achievement tests to all compensatory education students; and the development and use of data based on group controls which will provide evidence of contrast, and the assembly and classification of data for use at the statewide level. A school district plan of compensatory education under this chapter shall, in order to receive approval, contain this program element.

54423. In addition, the district may propose other programs, subject to the approval of the Director of Compensatory Education, to include the following elements:

(a) Employment of competent school-community coordinators, to secure effective coordination of the efforts of pupils, parents, schools, and the community.

(b) Curriculum revision and the development and use of new instructional equipment and facilities to reorient the education program to meet the particular needs of the disadvantaged pupils, with special attention to be given to the teaching of the English language.

(c) Effective use of auxiliary personnel, the services of whom may be made available not only by the public school system, but by other public and private agencies and organizations, including ethnic organizations.

54424. A school district may establish nursery schools and may admit thereto children who are at least three years of age. Nursery schools shall be maintained pursuant to standards set by the State Board of Education which standards shall provide for the qualifications of the teachers to be employed in the schools.

54425. The governing board of each school district maintaining a program of compensatory education shall, at the times and in the form and manner prescribed by the Director of Compensatory

Education but not less than once in each school year, submit information evaluating the program in all respects including but not limited to the following standards:

(a) The existence of residential areas within the school district likely to produce substantial numbers of disadvantaged children, which areas may properly be characterized as slum or depressed urban areas, areas of retarded socioeconomic development, remote rural areas, areas including impoverished homes, areas with concentrations of non-English-speaking populations (such as Spanish-speaking populations), Indian reservations, areas with concentrations of recent in-migrant families, areas with concentrations of migrant farm families, areas with concentrations of low-income racial and nationality minority populations.

(b) The general adequacy of the program in terms of the degree to which talent, knowledge, information, and all available outside resources and aids (including the Economic Opportunity Act of 1964, Public Law 452, 88th Congress) have been mobilized, precision in the definition of the objectives and the particular types of services, activities, and identification methods to be utilized, the projected term of the undertaking with reference to time required to accomplish objectives, and the measures provided to enable periodic evaluations of accomplishments.

(c) The operational promise of the program in terms of the adequacy of the district's facilities and resources to carry it out, the background and competency of program supervisors and personnel and any special training previously afforded them, and the degree to which the program is likely to enhance the skill and competency of supervisors and personnel in achieving the objectives of the program or other such programs.

(d) The economic efficiency of the program in terms of specific district expenditures actually being made over and above those incurred in carrying out the regular educational program, the justification of expenditures by procedures to be followed, the existence of a direct relationship between proposed expenditures and anticipated results, and the adequacy of financing to accomplish stated objectives.

(e) The extent to which the program will serve to facilitate the development of data and information which will serve to increase the general effectiveness of programs for education of educationally disadvantaged minors.

(f) The results of the comprehensive pupil achievement tests administered by the district to all students enrolled in compensatory education programs pursuant to subdivision (i) of Section 54422, together with test scores of appropriate control groups of students, developed in accordance with that subdivision.

## Article 3. Migrant Children

54440. The Legislature finds and declares that:

(a) A significant number of children under the age of 18 of migratory agricultural workers and migratory fishermen reside in California for at least a part of each year. These children, from among the least affluent segments of American Society, tend to move frequently, attend school irregularly, and suffer health defects and language handicaps which significantly inhibit their progress in school. This results in many becoming early school dropouts, poorly prepared for personal growth and fulfillment or economic success or upward social mobility.

(b) The problems of children of migratory agricultural parents and of migratory fisherman parents are of such magnitude and severity that local school districts have been unable to solve them with the resources normally available. It is, therefore, necessary for the state to aid local school districts through regional coordinating offices, and the provision of special programs of educational and related services for these children.

54441. As used in this article, "migrant child," means a child who has moved with a parent, guardian, or other person having custody from one school district to another either within California, or between California and another state within the 12-month period immediately preceding his identification as such a child, in order that a parent, guardian, or other member of his immediate family might secure temporary or seasonal employment in an agricultural activity, including the production, or processing, or both, of agricultural products, or in fishing or the preparation and processing of other seafood products.

54441.5. With the concurrence of his parents, a child who has been identified as a "migrant child" may be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in an area where programs are provided for migrant children. Priority shall be given, however, to programs and activities for migrant children, and in no case shall migrant programs be provided solely for children who have ceased to migrate.

54442. The State Board of Education shall adopt and submit to the Legislature by April 1, 1974, a state master plan for services to migrant children. Such plan shall include provisions for the following:

(a) Instructional activities on a regular and extended year basis shall be designed to identify, diagnose, and provide treatment for academic deficiencies of migrant children. Special emphasis will be given to oral and written communications, reading and mathematics. Small group or individual instruction and tutorial services will be provided to assist migrant children to attain normal progress rates in all subject areas. All instructional services will be provided as supplements to regular programs of instruction provided by the public schools for all children.

(b) Health and welfare services shall be designed to identify, diagnose, and provide treatment for conditions of a physical, including dental, emotional, or environmental, nature which interfere with the learning processes of migrant children. Insofar as possible, existing community resources will be utilized to provide these services.

(c) Preservice and in-service education of professional and nonprofessional personnel shall be planned to prepare school administrators, teachers, aides and other personnel to meet the special needs of migrant children.

(d) Supportive services including transportation, family liaison, and other services necessary to the success of the programs.

(e) Child development activities including, but not limited to social, sensorimotor, conceptual and language development, and perceptual discrimination activities for migrant infants and pre-kindergarten-aged children too young to participate in instructional services normally provided by the public schools.

(f) The active involvement of parents, teachers, and community representatives in the local implementation of migrant education programs.

54443. Services to all migrant children, as defined by Section 54441, will be provided by the 1976-1977 school year.

(a) Services provided by the state plan will not reduce or replace services provided by local school districts or other governmental or private agencies.

(b) Services shall be coordinated with all existing federal, state, and local resources available to migrant families.

54444. In implementing the plan adopted by the State Board of Education, the Superintendent of Public Instruction is authorized to:

(a) Contract with county superintendents of school or local educational agencies to supply services to migrant children residing within specified geographical regions.

(b) Enter into agreements or otherwise cooperate with other states or agencies of the state or the federal government in providing or coordinating services to migrant children including participation in or utilization of the Migrant Student Record Transfer System.

54445. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this article.

#### Article 4. Administration

54460. There is in the Department of Education the office of Director of Compensatory Education. The Director of Compensatory Education shall be appointed by the State Board of Education, upon nomination by the Superintendent of Public Instruction, and he shall be subject to state civil service. In performing his duties and responsibilities under this chapter the director shall act as the representative of the Department of Education. The Director of Compensatory Education shall be

provided with such facilities and staffing necessary to provide him with such technical and clerical assistance as is required in order for him to carry out his duties under the provisions of this chapter.

54461. The Director of Compensatory Education shall, under the policy direction of the State Board of Education and the administrative direction of the Director of Education, have overall supervision and control of programs of compensatory education provided throughout the state, and shall take action necessary to coordinate all such programs. He shall, pursuant to the provisions of this chapter and the provisions of the Elementary and Secondary Education Act of 1965 and the regulations promulgated thereunder, be responsible for receiving and recommending approval or disapproval to the State Board of Education of local program applications and providing technical and consultative assistance to school districts.

The Director of Compensatory Education shall conduct continuing research and study of the subject of programs of compensatory education, involving not only the examination and evaluation of programs established under the provisions of this chapter but comparable undertakings in other states, to the end of effecting improvement in the administration of the programs for compensatory education established under the provisions of this chapter. He shall serve as a clearinghouse and center of information, and shall issue and disseminate to school districts participating in programs established under this chapter or otherwise affected by problems presented by the presence of disadvantaged minors anywhere, such publications and results of investigations as will tend to foster the establishment of sound programs for compensatory education and to enhance their effectiveness.

He shall collect and provide information concerning sources of federal, state, and local public funds, and private funds, which may be available for compensatory education purposes. It shall be the responsibility of the local officials and agencies of the public school system to take necessary measures to secure all outside financial assistance which may be available.

The State Board of Education, on recommendation of the Director of Compensatory Education, shall determine the eligibility of applicant school districts for grants provided under this chapter. Applications for approval of programs and for grants shall be comprehensive in scope. Applicant districts shall, to the extent practicable, provide programs at all grade levels, but special emphasis is to be given programs provided at the preschool and early elementary grade levels.

54462. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this chapter, including rules and regulations which:

- (a) Prescribe the procedure by which a district shall identify disadvantaged minors.
- (b) Establish minimum standards for programs.

(c) Require the annual submission of such reports by school districts as will permit the evaluation of the programs of compensatory education and the accumulation of data and information which will be useful in developing suggestions, policies, and requirements for improvement of such programs generally.

54463. The State Board of Education, on the recommendation of the Director of Compensatory Education, shall, for purposes of this chapter, in accordance with the provisions of this chapter and the rules and regulations of the State Board of Education implementing the same, have the power to approve, withhold approval of, or disapprove of any program of compensatory education.

54464. The Director of Compensatory Education shall not recommend, and the State Board of Education shall not approve, a project or program in compensatory education without assurance that the teacher in the class in which the project or program is to be conducted and other certificated personnel required to provide services under the project or program hold a regular credential.

The Director of Compensatory Education may waive this requirement where the school district submits evidence which is satisfactory to him that provisionally credentialed teachers have been provided through an established career opportunities program, a teacher corps program, or through a district career development plan designed to provide employment opportunities, concurrent training, and career advancement for capable persons of low-income background who wish to enter the teaching profession.

54465. For all purposes of this chapter the Director of Compensatory Education may array and assign priorities to the programs of compensatory education maintained by the different school districts on the basis of numbers, concentration or density of disadvantaged pupils in particular areas.

#### Article 5. Special Teacher Employment Programs

54480. From moneys specially appropriated therefor by the Legislature, grants shall be made to school districts pursuant to this article for projects approved by the Director of Compensatory Education involving a particular school or schools to be expended for the employment and in-service education of teachers in grades kindergarten or 1 through 6, with special emphasis on kindergarten and primary grades, and any needed teacher materials and supplies to the end that the number of pupils in these grades in relation to each full-time equivalent classroom teacher in the particular school will be reduced to a ratio of 25 to 1.

For purposes of this article a full-time equivalent classroom teacher is a person employed in a position requiring certification qualifications and whose duties require him to teach pupils in regular day classes for the full time for which he is employed during the regular schoolday. In computing the total number of full-time equivalent classroom teachers, there shall be included, in addition to

the employees defined in the preceding sentence, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in regular day classes during the regular schoolday.

54481. It is the intent and purpose of the Legislature that the money appropriated for the purposes of this article be expended primarily for the employment of teachers to the end that the number of pupils in the designated grades in relation to each full-time equivalent classroom teacher be reduced to and sustained at a ratio of 25 to 1. Emphases shall be placed on kindergarten and primary grades for the purpose of continuing to provide small classes for children with preschool experiences. The Director of Compensatory Education shall consider this intent in approving projects submitted pursuant to this article. In the event an applicant district is unable to employ the number of teachers necessary to effect the purposes of this article, the Director of Compensatory Education, notwithstanding the provisions of Section 54480, is authorized to approve projects that provide for the employment of noncertificated teachers' aides for grades kindergarten or 1 through 6, inclusive, to the end that the number of pupils in those grades in relation to the number of both classroom teachers and teachers' aides employed for such grades shall not exceed 20 to 1. All teachers' aides shall be trained in a specially designed in-service education program. Not more than 25 percent of the total allocated to a school district shall be devoted to the employment of teachers' aides. The use of any portion of the total allocated shall be approved for the employment of noncertificated teachers' aides by the Director of Compensatory Education only upon certification of the applicant district, approved by the county superintendent of schools which has jurisdiction over the applicant district, that teachers are unavailable for employment in accordance with the primary legislative intent of this article.

54482. Noncertificated teachers' aides employed under this article shall be under the immediate supervision and direction of certificated classroom teachers and shall not be utilized to carry out administrative duties other than those administrative duties which may be assigned by the classroom teacher.

A school district may employ as a teachers' aide any person determined to be qualified, including pupils in attendance in grades 11 and 12 in high schools, and students in attendance in community colleges and in colleges and universities. The employment may be on a regular full-time, or on a part-time basis. The employment of pupils in attendance in grades 11 through 14, in public high schools and community colleges, shall be arranged so that no reduction in attendance credit and State School Fund apportionments results therefrom. Teachers' aides shall be compensated by the employing school district at a rate no lower than the federal minimum hourly wage for time in which service was actually performed. A person employed as a teachers' aide shall be under the direct supervision of a certificated employee of the school district for no less than 75

percent of the time for which he is engaged in the performance of the duties during any day. The employment of college and university students as teachers' aides may, where appropriate, be undertaken for student teaching credit purposes.

54483. The Director of Compensatory Education, acting pursuant to rules and regulations adopted by the State Board of Education, upon the advice of the Directors of the Departments of Finance, Social Welfare, Human Resources Development, and Industrial Relations, shall designate the most concentrated areas of poverty and social tension in the state, taking into consideration such factors, among others, as the high incidence of poverty and low family and per capita incomes, unemployment, juvenile delinquency, persons receiving assistance under the program of Aid to Families with Dependent Children, and especially the low level of academic achievement by pupils in the public schools.

The Director of Compensatory Education shall allocate the funds available for programs under Section 54480 proportionately by public school population among the areas designated by him. He shall then approve projects proposed to be undertaken by school districts within such areas at particular schools with the highest concentrations of low-income children and with the lowest records of academic achievement. Funds not fully utilized in one designated area may be reallocated to the other designated areas. Upon the request of a school district, the Director of Compensatory Education may authorize funds to be used outside the designated areas to serve children from the designated areas.

54484. Apportionments for purposes of this article shall be made upon order of the Superintendent of Public Instruction and by warrant of the State Controller. Moneys apportioned shall be expended precisely as directed by the Director of Compensatory Education, with not more than five percent (5%) of the total apportionments expended for in-service education.

54485. Apportionments to a school district shall be in the form of grants, no part of which shall be required to be matched by a district as a condition to receiving state aid under this article.

In making allocations pursuant to this article the Director of Compensatory Education shall use an allocation factor equivalent to the average statewide teacher salary per full-time equivalent classroom teacher.

54486. The Director of Compensatory Education shall require that the class size reduction project undertaken pursuant to this article be coordinated with and be an integral part of the school district's overall compensatory education plan and evaluation report, and that a significant portion of all funds which may be received by a district for purposes of this chapter shall be devoted to the purposes of this article.

54487. Programs or projects pursuant to this article within a school district shall be deemed a program of compensatory education or an element thereof, and, except as otherwise specifically provided

in this article, shall be subject to all of the other provisions of this chapter.

Rules and regulations adopted by the State Board of Education for purposes of this chapter shall provide for the implementation of this article in all respects.

#### Article 6. Preschool Followthrough Programs

54520. It is the intent and purpose of the Legislature by this article to ensure that the instructional program in the early elementary grades in the public schools will complement preschool programs and reinforce the benefits afforded children who have participated therein, and will be directed to maintaining and raising the levels of educational achievement and potential of such children.

Preschool followthrough programs and projects conducted pursuant to this article shall comprise an essential component of compensatory education, and shall be included among and coordinated with other components of compensatory education programs. Except as otherwise specifically provided by this article, such programs and projects shall be subject to all other provisions of this chapter.

54521. From funds which may be appropriated therefor by the Legislature, or from federal funds which may be made available for the purpose, grants may be made to applicant school districts which have established projects or programs pursuant to this article. No matching-fund requirements shall be imposed as a condition upon entitlement to any such grant, unless otherwise required for purposes of establishing eligibility for federal funds. The grants shall be disbursed upon order of the Superintendent of Public Instruction and by warrants of the State Controller. Eligibility for grants and the expenditure thereof by the recipient school district shall be provided for by standards and requirements prescribed in rules and regulations of the State Board of Education.

54522. In accepting federal funds which may be made available for purposes of this article the people of the State of California agree to accept and comply with all conditions and requirements which may be prescribed in connection therewith by or under the authority of federal law.

The State Board of Education is designated as the state educational agency which shall carry out the purposes and provisions of any federal statute under which federal funds may be provided for purposes of this article. The board shall formulate and submit to the United States Commissioner or other designated federal officer or agency any state plan which may be required for such purposes, and shall have the power to revise and amend the same, as required, and shall have overall control and direction of its administration.

54523. Under the direction of the State Board of Education evaluations shall be made of the instructional programs provided in grades kindergarten, 1, 2, and 3 in selected elementary schools in the

state in which are enrolled substantial numbers of pupils who have participated in preschool programs. The evaluations shall be directed to making determinations concerning the matters following:

(a) The extent to which the instructional programs complement the preschool training, reinforce the benefits afforded the children by participation therein, and effect continuity in the efforts to raise the level of educational attainment and potential of the children. For such purposes the State Board of Education may prescribe and direct a system of evaluation.

(b) The particular elements or components of the educational programs which should be emphasized or accelerated to accomplish the purposes specified in subdivision (a), or the particular elements and components which might be incorporated into the instructional programs to accomplish such purposes.

54524. The State Board of Education shall provide for the establishment of pilot preschool followthrough programs and projects in schools maintaining grades kindergarten, 1, 2, and 3 at the elementary level. The programs and projects shall be subject to the provisions of Section 54461.

54525. Pilot preschool followthrough programs and projects shall serve disadvantaged minors in kindergarten, and grades 1, 2, and 3, who have participated in preschool programs conducted pursuant to this chapter or pursuant to any other law of this state, or pursuant to federal law under which funds are provided for the programs, and shall include, to the extent that funds are available, any one or more of the following elements and components (in addition to others which may be determined to be essential under Section 54523):

(a) Reduction of pupil-teacher ratios. Reduction of such ratios to 20 to 1, or lower, at the kindergarten level, and to 25 to 1 or lower in grades 1, 2, and 3 at the elementary level, shall be the basic standards to which such efforts shall be directed.

(b) Establishment of single-session kindergarten programs, with the individual classroom teacher to be responsible for one, rather than two kindergarten classes.

(c) Utilization of teacher aides and other supporting staff personnel.

(d) In-service professional study involving instruction and orientation of school district personnel, with emphasis on developing a better understanding of the disadvantaged children and their educational needs, and developing particular teaching techniques to meet those needs.

(e) Development of curricula and educational aides to meet the educational needs of disadvantaged children, with emphasis upon improving comprehension of, and facility in, the language, and cultural enrichment, and including the development of new approaches to the teaching of academic subjects which will enhance abstract thinking and sharpen the cognitive skills.

(f) Providing comprehensive health services, including medical

and dental examinations, programs in nutrition, psychological counseling and speech therapy.

(g) Experimentation in grouping of children to realize the maximum benefits for children.

54526. Pilot preschool followthrough programs and projects shall be established on the basis of a geographical dispersion throughout the state which is most appropriate for purposes of this article, as determined by the State Board of Education. The programs and projects shall serve as demonstration models for other school districts in the state in the coordination of prechool, kindergarten and elementary grade instrucional programs for the benefit of disadvantaged minors.

54527. Each school district maintaining a program or project pursuant to this article shall, at the times and in the form and manner prescribed by the Superintendent of Public Instruction, but no less than once each year, submit reports thereon.

54528. For purposes of securing consultative services in evaluating instructional programs in grades kindergarten and 1, 2, and 3, and in formulating pilot preschool followthrough programs and projects, the Director of Compensatory Education may appoint and direct the work of a professional task force on preschool followthrough programs, to serve as employees within the Department of Education.

54529. Federal funds which may be provided for purposes of this article shall bear all the costs of the administration of the provisions of this article by the State Board of Education and the Department of Education.

## CHAPTER 9. MISCELLANEOUS PROGRAMS

### Article 1. Education Improvement Act of 1969

54600. This chapter may be cited as the Educational Improvement Act of 1969.

54601. It is the intent of the Legislature that the funds provided by this chapter and the funds provided through Title I and Title III of the Elementary and Secondary Education Act of 1965, the Miller-Unruh Basic Reading Act of 1965 (Chapter 2 (commencing with Section 54100) of this part, Article 3 (commencing with Section 60640) of Chapter 5 of Part 33 of this division), and Chapter 106 of the Statutes of 1966, First Extraordinary Session, be expended in the most effective way possible, and that cost effectiveness measures be employed in the approval and evaluation of all projects. It is the further intent of the Legislature that all projects be evaluated annually as to the degree of program achievement and cost effectiveness produced; that highly effective projects shall be expended to further use in the district where operated and in other districts; and that less effective projects be replaced with ones of proven effectiveness, or by new projects which hold promise of high

effectiveness.

It is the intent of the Legislature that the effectiveness of a project be measured in terms of the objectives of the project, and that each district should be primarily concerned with the pupils' improvement in ability to read, to use and understand the English language, and to use and understand the concepts of mathematics.

The Legislature intends that each project be evaluated annually by the Department of Education to determine and identify its relative effectiveness; that such evaluation shall be assisted by an advisory committee competent to assess the effectiveness of the results of the project, and to make recommendations to the Department of Education and to the State Board of Education on projects to be expanded in use and those that should be modified or replaced to produce greater effectiveness.

54602. In approving projects under this chapter, or projects under Titles I and III of the Elementary and Secondary Education Act of 1965, the Miller-Unruh Basic Reading Act of 1965 (Chapter 2 (commencing with Section 54100) of this part, Article 3 (commencing with Section 60640) of Chapter 5 of Part 33 of this division), and Chapter 106 of the Statutes of 1966, First Extraordinary Session, the State Board of Education shall give due consideration to the effectiveness of the project and shall not continue in operation any project that, upon evaluation, has been shown to be of low effectiveness, and which has only a limited possibility of improved effectiveness.

54603. From moneys provided pursuant to subdivision (h) of Section 41301, the Superintendent of Public Instruction shall compute an allowance for each school district which meets each of the following requirements:

(a) The district, during the preceding fiscal year, had an average daily attendance, exclusive of the average daily attendance of adults, as adults are defined by Section 52610, of 500 or more.

(b) The entitlement for the district for funds under Title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year for each unit of average daily attendance, exclusive of the average daily attendance of adults, as adults are defined by Section 52610, exceeds 150 percent of the statewide average entitlement.

For the purposes of this section, the average daily attendance of pupils in grades 7 and 8 attending a junior high school maintained by a high school district shall be credited to the high school district.

54604. The allowance for each eligible district under Section 54603 shall be computed pursuant to the provisions of Sections 54605 to 54610, inclusive.

54605. (a) The Superintendent of Public Instruction shall compute for each eligible district the actual amount of entitlement for the district for funds under Title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year, per unit of average daily attendance, exclusive of the average daily attendance of adults, as adults are defined in Section 52610, during

the preceding fiscal year.

(b) He shall determine the lowest amount per unit of average daily attendance computed for any district in the state under subdivision (a). This amount shall be assigned the weighting value of 1.00. A weighting value for each other district shall be computed by dividing the amount per unit of average daily attendance computed under subdivision (a) by the lowest amount per unit of average daily attendance computed under this subdivision.

54606. (a) The Superintendent of Public Instruction shall determine the current tax rate as defined by Section 17604 for each eligible district, by type of district.

(b) He shall determine the lowest current tax rate in effect for each type of eligible district. Such lowest current tax rates shall be assigned the weighting value of 1.00 respectively.

(c) A weighting value for each other district current tax rate shall be computed by dividing the current tax rate for each district determined under subdivision (a) by the lowest current tax rate for each type of district determined under subdivision (b).

54607. (a) The Superintendent of Public Instruction shall determine the average achievement testing scores in terms of state percentiles in elementary school districts for grades 1, 3, and 6 or 8, whichever is the last grade in the particular elementary school within the school district, in high school districts for grade 12, and in unified school districts for grades 1, 3, 6 or 8, whichever is the last grade in the particular elementary school within the school district, and 12, as measured by the 1966-1967 statewide administered achievement tests.

(b) He shall compute the reciprocal value for each district achievement test score determined in subdivision (a).

(c) He shall determine the lowest reciprocal value for achievement test scores under subdivision (b). Such lowest reciprocal value shall be assigned the weighting value of 1.00.

(d) A weighting value for achievement test scores for each other district shall be computed by dividing the reciprocal value for each district determined under subdivision (b) by the lowest reciprocal value for achievement test scores determined under subdivision (c).

54608. The Superintendent of Public Instruction shall determine the composite weighting value for each district, by multiplying together the weighting values computed for each district pursuant to Sections 54605, 54606, and 54607.

54609. The Superintendent of Public Instruction shall compute for each eligible district a weighted average daily attendance by multiplying the composite weighting value for the district determined in Section 54608 by the number of units per average daily attendance, exclusive of the average daily attendance of adults, as adults are defined by Section 52610, of the district.

54610. The Superintendent of Public Instruction shall compute the entitlement for each district by dividing the total of the amount appropriated for the purposes of this chapter by the sum of the

weighted units of average daily attendance computed for all districts under Section 54609, and multiplying the quotient by the weighted average daily attendance for the district.

54611. The governing board of any district for which an allowance was computed under Section 54604 may apply to the Superintendent of Public Instruction for an apportionment of a part or all of the allowance computed for the district. The application shall contain a detailed plan or plans for the use of the allowance. The plan or plans shall be submitted in accordance with the provisions of Article 2 (commencing with Section 54420) of Chapter 4 of this part. The State Board of Education may adopt rules and regulations relating to the form and content of applications and procedures for review and approval thereof.

54612. Under the direction of the Superintendent of Public Instruction, the programs authorized by this chapter shall be administered by the Office of Compensatory Education. The Director of Compensatory Education shall insure that the programs of educational improvement maintained by eligible schools are coordinated with the district's ongoing program of compensatory education and the Miller-Unruh Basic Reading Act of 1965, prescribed in Chapter 2 (commencing with Section 54100) of this part, Article 3 (commencing with Section 60640) of Chapter 5 of Part 33 of this division.

54613. It is the intent of the Legislature that amounts allowed pursuant to this chapter be expended exclusively for purposes of the programs authorized by this chapter. The Department of Education shall, for purposes of this chapter, prescribe a system of accounts and records to be used by school districts participating in programs authorized by this chapter which will clearly reflect the relationship between amounts provided for such purposes and the amounts expended therefor.

54614. Applications shall be subject to the approval of the State Board of Education. Upon approval by the State Board of Education, the Superintendent of Public Instruction shall certify an apportionment or apportionments to the Controller in accordance with procedures established by the State Board of Education. The Controller shall draw warrants on the State Treasury in the amounts certified in favor of the county treasurer of the county which has jurisdiction over the applicant school district. The county treasurer shall immediately credit the general fund of the applicant school district exactly as apportioned by the Superintendent of Public Instruction.

## Article 2. School Improvement Act of 1970

54630. This chapter shall be known and may be cited as the School Improvement Act of 1970.

54631. It is the intent of the Legislature that program improvement schools be established throughout the state in not

more than five separate schools in different districts, and in not more than all of the schools in one elementary district, to offer educational programs which are developed by the director and staff of such schools in cooperation with representatives of the local community, including the parents of children served by the school. It is the further intent of the Legislature that the programs established under the provisions of this chapter be designed to facilitate an evaluation of the effectiveness of promising instructional methods, techniques, and staffing patterns that are intended to improve the level of pupil achievement in the areas of reading and mathematics.

54632. (a) A "program improvement school" is an elementary school, a junior high school, or a high school designated as such by the district and approved by the State Board of Education.

(b) A "community resource committee" is a committee appointed by the director of each program improvement school at least one-half of the membership of which is made up of parents of children participating in the program. The committee shall assist the director and his staff to plan and implement the educational program, identify community resources which could be utilized in the program, and inform the community of the proposed program. The membership of the community resource committee may include, in addition to parents of children participating in the program, but need not be limited to:

(1) Parents of other pupils served by the school.

(2) Pupils enrolled in the school.

(3) Representatives of the community college, campus of the California State University and Colleges, or university participating in the project.

(4) Other individuals representing business and industry, organized labor, and representatives of local law enforcement, welfare, and employment agencies.

(c) If a parent advisory committee has been established for the school pursuant to Title I of the Elementary and Secondary Education Act of 1965, the director may, at his election, designate it to serve as the community resource committee in lieu of the committee otherwise to be appointed pursuant to subdivision (b).

54633. A school may be designated a program improvement school when all of the following conditions are met:

(a) The school meets the criteria of Section 54483.

(b) The director of the school is appointed by the school district with the concurrence of the Superintendent of Public Instruction and the Director of the Office of Compensatory Education.

(c) The school has at least the staff for auxiliary and administrative services that would be present in an adequately staffed school.

(d) The governing board of the school district has delegated to the director of the program improvement school all powers, duties, and responsibilities related to the budget, curriculum, courses of study, pupil conduct, staffing, and class scheduling.

(e) The director of the proposed program improvement school

has appointed a community resource committee.

(f) The proposed program of educational improvement has been developed by the director and staff of the school in cooperation with an institution of higher education and has the concurrence of the community resource committee.

54634. Districts are encouraged to waive their existing administrative salary schedule for the individual proposed for the job of director in order to obtain an individual of demonstrated managerial talents who is committed to educational achievement.

54635. Any school may apply to establish a program improvement school provided all of the following conditions are met:

(a) Evidence that the proposed program improvement school meets the requirements of Section 54633, including evidence that the school district governing board has delegated to the director of the school all powers, duties and responsibilities defined in subdivision (d) of Section 54633.

(b) Evidence that the school district governing board intends to provide an entitlement for the proposed program improvement school to be allocated by the director for the development, implementation, and maintenance of the proposed program. The entitlement shall be equivalent to the total amount of resources from state and local funds which would otherwise be provided the school under the district's current budgeting procedures. The total amount of state support shall exclude state funds currently expended in the school under the provision of the Miller-Unruh Basic Reading Act, the Mathematics Improvement Program, and the State Compensatory Education Program.

54636. The application shall include a detailed plan for developing and implementing the proposed program including:

(a) A description of the proposed educational program, including the proposed staffing, class scheduling and instructional techniques, and a schedule for the implementation of the program.

(b) A description of the quantifiable achievement objectives of the proposed program.

(c) A description of the in-service training program to be provided by the teaching staff in the program improvement school, including evidence that the in-service training program has been cooperatively developed with an institution of higher education. Program improvement schools located in school districts which have established professional development programs authorized by Article 10 (commencing with Section 44630) of Chapter 3 of Part 25 of Division 3 of this title may utilize professional development centers for providing in-service training.

(d) Applications may also include the school's request for state and federal categorical aid funds which are deemed necessary to carry out the proposed program.

54637. The State Board of Education shall exempt from any and all provisions of the Education Code a program improvement school when, in the opinion of the director of the school, such provisions

would hinder the implementation and maintenance of the proposed program. Such exemption shall not decrease the district apportionment from the State School Fund. §

54638. For the purpose of state and federal categorical aid allocations, the program improvement schools shall be designated as school districts so that they may apply directly to the state for categorical aid funds to finance elements of the proposed program which could not be financed by the block grant authorized the school by the school district.

54639. The State Board of Education, on the advice of the Superintendent of Public Instruction and the Director of Compensatory Education, shall adopt rules and regulations necessary to implement the provisions of this chapter.

54640. The State Board of Education shall provide for the evaluation of the program improvement schools. The evaluation shall include an analysis of the improvement or lack of improvement in the achievement levels of pupils enrolled in the schools, the cost components of the instructional techniques and staffing arrangements utilized in effective programs, and the effectiveness of the community resource committees.

54641. Program improvement schools shall report to the State Board of Education the average scores of pupils in such schools on standardized achievement tests. In addition, the district in which the program improvement school is located shall report the average scores of pupils in other schools. The reports submitted by the program improvement schools and by the school district shall be compared to determine the amount of progress made by each pupil in the program improvement school and in nonprogram improvement schools for each year of instruction. The State Board of Education on the basis of such reports shall submit annually to the Legislature a comprehensive evaluation of the program, including a detailed analysis of the cost components of effective and ineffective programs.

54643. This chapter shall be administered by the Office of Compensatory Education.

54644. Persons employed to teach in and administer the program improvement schools shall be deemed to be on leave of absence from the school district whose employment they leave to accept employment in the program improvement school, and shall retain permanent status, or credit for service toward permanent status, in such school district during their employment with the program improvement schools. Such persons shall continue to be members of, and contribute to, the retirement system of which they were members at the time immediately prior to their employment in the program improvement schools.

54645. (a) Persons employed in the program improvement schools in positions not requiring certification qualifications shall be deemed to be on leave of absence from the school district whose employment they leave to accept employment in the program

improvement schools, and shall retain permanent status, or credit for service toward permanent status, in such school district during their employment with the program improvement schools. Such persons shall continue to be members of, and contribute to, the retirement system of which they were members at the time immediately prior to their employment in the program improvement schools.

(b) All sick leave, seniority, and other benefits to which they are entitled will be transferred with them to the program improvement school and transferred back to their school district upon termination of their leave of absence.

(c) Should their employment in the program improvement school be terminated for any reason, they shall be returned to the school district from which they are on leave of absence from and if a vacancy does not exist in the class from which they are on leave they shall have the right to displace an employee in that class with the least seniority in the class and who has less seniority than they do. Seniority, for the purposes of this section, shall mean the combined school district and program improvement school service.

### Article 3. The Elementary and Secondary School Dropout Prevention Act of 1969

54660. This chapter shall be known and may be cited as the Elementary and Secondary School Dropout Prevention Act of 1969.

54661. It is the intention of the Legislature that programs be established to reduce the number of children who do not complete their elementary and secondary education. Such programs are to be designed to develop and demonstrate effective educational practices for the reduction and prevention of dropouts in urban and rural schools with high concentrations of children from low-income families and with high dropout rates.

It is also the intention of the Legislature that all district, state, and federal programs related to dropout prevention be integrated and coordinated with the dropout prevention programs created by this article.

54662. As used in this article:

(a) "Dropout" means a person who withdraws from school enrollment, or is excluded from school by suspension or expulsion before completing his elementary and secondary school education.

This definition also includes students at the elementary or secondary level who are underachieving and who can be identified as potential dropouts.

(b) "Program" means an Elementary and Secondary School Dropout Prevention Program established pursuant to this article.

54663. Any school district may apply to establish a dropout prevention program. The application shall be submitted to the State Board of Education and shall contain a detailed plan which shall include all of the following:

(a) A description of the dropout prevention program proposed

including the innovative methods system, materials, or programs and performance objectives to be utilized which show promise of reducing the numbers of elementary and secondary children who do not complete their education.

(b) A description of the procedures to be established to coordinate the development and operation of programs with other local, state, and federal dropout prevention programs and with other public and private programs having the same or a similar purpose.

(c) A description of the evaluative techniques and objective measures to be utilized by the applicant school district to determine the reduction in the numbers of children who drop out of, or are excluded from, educational programs prior to achieving a proficiency required for graduation from high school.

(d) A description of the proposed educational and administrative staffing of the program.

(e) A description of the steps taken in the development of the proposed program including involvement of potential participants and their families.

(f) Evidence that the district has examined its existing dropout prevention programs supported from local, state, and federal funds with the Elementary and Secondary School Dropout Prevention Programs authorized by this article, and evidence that the district intends to integrate such effective programs into the programs authorized by this article to increase its overall expenditure for dropout prevention programs.

(g) Descriptive data indicating the district's dropout rate for the three years preceding the application for both elementary and secondary schools.

(h) Dropout prevention programs below grade 12 shall be designed longitudinally so as to extend into higher grades.

54664. In approving applications for program approval pursuant to this article, the State Board of Education shall give priority to the acceptable applications from (1) districts with the highest concentrations of children from families with an annual income of four thousand dollars (\$4,000) or less, and (2) districts which exceed the average statewide dropout rate.

54665. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this article.

The State Board of Education may grant waivers for any provision of the Education Code as may be necessary for the development of an effective dropout prevention program.

54666. School districts which have dropout prevention programs shall report to the State Board of Education the effectiveness of programs in reducing the number of school dropouts. The State Board of Education, on the basis of such reports, shall report annually to the Legislature on the success of the program and shall make recommendations to improve the program.

54668. The State Board of Education shall establish procedures for allocating funds to support the dropout prevention programs

authorized by this article.

54669. The Department of Education shall administer the provisions of this article and all programs financed under the provisions of Title VIII of the Elementary and Secondary Act of 1965 (Public Law 89-10, as amended).

54670. The State Board of Education shall approve the allocation of all funds annually received by the State of California under the provisions of Title VIII of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, as amended) for the purposes specified in this article.

#### Article 4. Abstract Mathematics Program

54680. This article shall be known and may be cited as "The Abstract, Conceptually Oriented Mathematics Program Act."

54681. As used in this article:

(a) "Abstract, conceptually oriented mathematics" means mathematics which includes such general topics as algebra, number theory, set theory, elementary logic, coordinate geometry, combinatorics, and intuitive geometry and which are taught at secondary or college level of sophistication, with an approach aimed at the understanding of the underlying relationships and structure of mathematics.

(b) "Discovery method" means a mode of teaching that arrives at tentative answers through questioning and inductive reasoning.

(c) "Educationally needy children" means children who are enrolled in any school which meets the requirements for grants authorized by Title I of the Elementary and Secondary Education Act of 1965, as amended.

(d) "Elementary school" means a school organized to include any grades, or combination of grades, kindergarten and grades 1 through 8, inclusive.

(e) "Mathematics specialist" means a person who has at least the equivalent of 36 semester hour credits in mathematics or in the mathematical sciences from an accredited college or university.

54682. Any school district maintaining an elementary school which has a high percentage of educationally needy children, meeting the provisions of Title I of the Elementary and Secondary Education Act of 1965, as amended, is eligible for the abstract, conceptually oriented mathematics program prescribed in this article and may apply to the Superintendent of Public Instruction for approval of the establishment of such a program.

The number of school districts whose applications may be approved by the Superintendent of Public Instruction shall not exceed four.

54683. Abstract, conceptually oriented mathematics class sessions, consisting of at least 40 minutes, but not more than 60 minutes, each and utilizing the discovery method, shall be held not less than four times per week, provided that not more than one such

session shall be held per day per class with any grade placement from kindergarten through 6, inclusive.

54684. Abstract, conceptually oriented mathematics classes shall be in addition to regular mathematics classes for educationally needy children in participating elementary schools.

54685. In-service training of a local teaching staff shall be accomplished by having the regular classroom teacher present during the project class sessions. The mathematics specialist shall consult for at least one additional period per week with the school district staff involved in the project.

54686. The Superintendent of Public Instruction may contract with a nonprofit corporation which he determines to be most knowledgeable about such a program to carry out the provisions of this article, except the provisions of Sections 54682, 54687, 54688, and 54689, including, but not limited to, recruiting, training, selecting, placing, and supervising the mathematics specialists, coordinating all matters, and providing in-service training of local teaching staffs.

54687. The Superintendent of Public Instruction shall provide for an evaluation of the program prescribed by this article which shall include, but not be limited to, an assessment of its impact on the mathematics achievement of target pupils, and an analysis of changes in motivation, interest, and self-image among the same pupils. The Superintendent of Public Instruction shall contract with an independent, nonprofit agency to conduct all of the evaluation.

The contractual agreement between the Superintendent of Public Instruction, the independent, nonprofit agency, and the nonprofit corporation prescribed in Section 54686 shall specify the nature and frequency of the fiscal auditing of participating school districts. All costs for personnel, in-service education, and internal management shall be determined and included in the fiscal audit report.

The Superintendent of Public Instruction shall report at least annually the findings of such evaluations to the State Board of Education and to the Legislature.

54688. The program prescribed by this chapter shall be monitored by the Superintendent of Public Instruction to ensure that classes are staffed and conducted according to the contract prescribed in Section 54686. The Superintendent of Public Instruction shall withhold funding for classes that do not satisfy the contractual agreements for staffing, instruction, in-service training, data collection, accounting, and other program commitments.

The Superintendent of Public Instruction shall publish guidelines and directions for participating school districts which shall contain specific instructions for the systematic collection of necessary information.

54689. Funds appropriated to the Superintendent of Public Instruction for the purposes of this article shall, unless otherwise specified in such appropriation, be expended in accordance with the following schedule:

- (a) An amount not to exceed 12 percent of the appropriation shall

be used for the costs incurred by the Superintendent of Public Instruction in the administration of the programs prescribed by this article and for the costs of the evaluation of the program pursuant to Section 54687.

(b) The balance of the appropriation shall be available for the contracts prescribed in Section 54687, provided that not more than four thousand five hundred dollars (\$4,500) shall be allowed per class; however, the Superintendent of Public Instruction may increase this maximum amount for each fiscal year commencing with fiscal year 1973-1974 and thereafter by an amount determined by the application of the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured by the calendar year next preceding the fiscal year to which it applies, to this maximum amount. The classes shall consist of not more than 35 students.

## PART 30. SPECIAL EDUCATION PROGRAMS

### CHAPTER 1. GENERAL PROVISIONS

#### Article 1. Reports on Handicapped Children

56000. As used in this article, "handicapped children" means any of the following:

(a) Physically handicapped pupils as defined in Chapter 5 (commencing with Section 56700) of this part.

(b) Mentally retarded pupils as defined by Sections 56500 and 56501.

(c) Severely mentally retarded pupils as defined by Sections 56500 and 56515.

(d) Educationally handicapped pupils as defined in Chapter 4 (commencing with Section 56600) of this part.

(e) Multihandicapped pupils which refers to any combination of (a), (b), (c), or (d).

56001. To compile sufficient information regarding handicapped children in order to assure these children of educational programs, on or before April 30, 1968, and April 30 of each year thereafter, the governing board of each school district shall make a report to the county superintendent of schools with jurisdiction over the district of each of the handicapped children who fall within any of the following categories for the fiscal year for which the report is made:

(a) Each handicapped child who is participating in a special class, school, or program of the school district for handicapped children.

(b) Each handicapped child who is not within the purview of subdivision (a), but whose parent, parents, guardian or other person having control or charge of the child applied to the school district for enrollment of the child in a special class, school, or program of the district for handicapped children. If the child was denied enrollment, the report shall so state. As used in this subdivision "applied" includes

an interview by school personnel of the district of the parent, parents, guardian or other person having charge of the child.

56002. The report required by subdivision (a) of Section 56001 may be limited to the particular programs in which pupils are participating and the numbers which are participating in each. The report required by subdivision (b) of Section 56001 shall contain all of the following information relative to each of the handicapped children reported:

(a) Name.

(b) Address.

(c) Date of birth.

(d) Names of the parent, parents, guardian or other person having control or charge of the child.

(e) Handicaps of the child insofar as they are known to the school district.

(f) Special class, school, or program, if any, in which the child is enrolled, with a statement of any suspensions of 10 days or more or expulsions from such special class, school or program suffered by the child.

56003. On or before June 30, 1968, and June 30 of each year thereafter, the county superintendent of schools of each county shall report for the fiscal year in which the report is made, to the Superintendent of Public Instruction, all of the handicapped children in the area under his jurisdiction who fall within the categories specified by Section 56000, including each of those handicapped children who are participating in a special class, school, or program provided by the county superintendent of schools, and each of those handicapped children who are not so participating, but for whom application for enrollment therein was made by the parent, parents, guardian or other person having charge or control over the child.

The report required pursuant to this section shall contain all of the information required by Section 56002 relative to each child reported, and in addition shall specify the school district which submitted such information to the county superintendent of schools pursuant to Section 56001.

56004. The governing board of each school district shall adopt rules and regulations to require the officers and employees of the district to gather the information required to be reported to the county superintendent of schools by this article.

56005. The Superintendent of Public Instruction shall adopt rules and regulations specifying the form of the reports required of school districts and the county superintendent of schools by this article.

## Article 2. Experimental Programs

56020. It is the intent of the Legislature, in enacting this section, to encourage school districts and county superintendents of schools to design, implement, and evaluate innovative, exemplary education

and training programs for the exceptional pupils enrolled in the public schools of this state. Therefore, the Superintendent of Public Instruction is hereby granted broad administrative discretion to approve exemplary experimental programs to operate at variance with Sections 46143, 46511, Sections 56600 to 56617, inclusive, Sections 56700 to 56725, inclusive, Sections 56800 to 56831, inclusive, Section 56833, Chapter 8 (commencing with Section 52200) of Part 28, Article 10 (commencing with Section 56160) of Chapter 1, Article 1 (commencing with Section 56500) of Chapter 3 of Part 30 of this division.

Such variance may include the guarantee of full apportionment for approved experimental programs which vary from maximum class size or duration or both and other provisions relating to deriving apportionment per average daily attendance when in the opinion of the Superintendent of Public Instruction the quality and innovativeness of the experimental program warrants.

Enrollment in experimental programs for exceptional pupils shall be limited to any combinations of children enrolled in programs for exceptional pupils as specified in this section, at the time of application for approval to operate the experimental program. In any event, no more than 5 percent of the statewide enrollment of exceptional pupils in each of the programs included in this section may be enrolled in experimental programs in a given fiscal year.

The State Board of Education shall adopt rules and regulations relating to the application for, operation of, and evaluation of, exemplary experimental programs for exceptional pupils.

### Article 3. Education for Exceptional Children for Whom No Public Facilities Are Available

56030. It is the intent and purpose of the Legislature in enacting this article to provide special educational facilities and services to exceptional children who, because the school district or county superintendent of schools of the county in which they reside has no appropriate special education facilities and services or they cannot reasonably be provided to fit their needs, or because the State of California has no facilities to educate them, are unserved by this state's school system or by state institutions or agencies. It is the further intent and purpose of the Legislature to provide the Department of Education with broad administrative discretion, consistent with the needs of exceptional children and the intent of this article, in carrying out its responsibilities under this article. The Superintendent of Public Instruction may adopt rules and regulations consistent with this article which he deems necessary for the effective administration thereof.

(a) As used in this article:

(1) An educationally handicapped pupil means an educationally handicapped pupil as defined by Chapter 4 (commencing with Section 56600) of this part.

(2) A physically handicapped pupil means a physically handicapped pupil as defined by Chapter 5 (commencing with Section 56700) of this part.

(3) A mentally retarded pupil means a mentally retarded pupil as defined by Sections 56500 and 56501.

(4) A severely mentally retarded pupil means a mentally retarded pupil as defined by Sections 56500 and 56515.

(5) A multihandicapped pupil as determined by the Superintendent of Public Instruction means a pupil with any combination of handicaps described above in paragraphs (1), (2), (3), and (4).

(6) Exceptional children includes all pupils defined in paragraphs (1) to (5), inclusive, of this subdivision.

(b) "Special educational facilities and services" means:

(1) In the case of an educationally handicapped pupil, the special educational facilities and services specified in Chapter 4 (commencing with Section 56600) of this part.

(2) In the case of a physically handicapped pupil, the special educational facilities and services specified in Article 1 (commencing with Section 56700) of Chapter 5 of this part and Sections 1850 to 1855, inclusive.

(3) In the case of a mentally retarded pupil, other than a severely mentally retarded pupil, the special educational facilities and services specified in Sections 1880 and 56501, insofar as applicable.

(4) In the case of a severely mentally retarded pupil, the special educational facilities and services specified in Sections 1880 and 56515, insofar as applicable.

(5) In the case of a multihandicapped pupil, the special educational facilities appropriate to the pupil's handicaps as determined by the county superintendent of schools.

56031. With the approval of the county superintendent of schools, any school district having a physically handicapped pupil, mentally retarded pupil, severely mentally retarded pupil, or multiply handicapped pupil for whom special education facilities and services as prescribed by Section 56030 are not available or cannot be reasonably provided, and for whom the State of California has no appropriate special education facilities and services, shall, and any school district having an educationally handicapped pupil for whom special education facilities and services as prescribed by Section 56030 are not available or cannot be reasonably provided, and for whom the State of California has no appropriate special education facilities and services, may, in lieu of establishing and maintaining the needed special education facilities and services at an unreasonable cost to the district, pay to the parent or guardian of such pupil toward the tuition for such pupil, enrolled in a public or private nonsectarian school, institution, or agency within or outside of California offering the special education facilities and services made necessary by the pupil's disabilities, an amount not to exceed the sum per unit of average daily attendance of the regular state

apportionment to the district for the fiscal year in question, the amount allowable per unit of average daily attendance for the particular category under Section 41882, 41884, 41885, or 41886, and paragraph (a) of subdivision (2) of Section 41888 for educationally handicapped pupils who are diagnosed as being autistic, the amount allowable per unit of average daily attendance for the particular category under Section 41863, and the amount per unit of average daily attendance provided from revenue derived from district taxation for the current expense of education of a normal child in the schools of the district. The amount per unit of average daily attendance provided from revenue derived from district taxation shall be the local share of the revenue limit determined pursuant to Sections 42233, 42238, and 42244. As used in this article "tuition" includes the cost to the parent or guardian of transporting a pupil enrolled in a public or private nonsectarian school, institution, or agency under this section to and from school.

The provisions of this section shall be applicable as well to situations where the special educational facilities and services are available but are an unreasonable distance away from the home of the pupil. The Superintendent of Public Instruction shall adopt rules and regulations to implement the determination of the unreasonableness of such cost and distance, and any other rules and regulations deemed necessary by him for the effective administration of this chapter. The county superintendent of schools shall make a finding as to the unreasonableness of such cost or distance for the school districts within his jurisdiction and shall report such findings to the Superintendent of Public Instruction, who, if he approves such findings, shall authorize payments pursuant to this section and Sections 56034 and 56035.

The provisions of this section shall be applicable as well to situations where the public special educational facilities and services are available but the attending physician of the physically handicapped, mentally retarded, severely mentally retarded, multiply handicapped, or educationally handicapped pupil or the attending optometrist of the physically handicapped pupil who is blind or partially seeing, or of the educationally handicapped pupil with a visual-perceptual disorder, has recommended that it is in the best interests of the health and welfare of such pupil that the pupil be enrolled in a private nonsectarian school, institution or agency offering the special education facilities and services made necessary by the pupil's disabilities, and such recommendation has been approved by the county health officer and the county superintendent of schools on forms specified by the Superintendent of Public Instruction.

Priority in providing special education facilities and services shall be given to public school, or state-operated, programs. State and school district support for an exceptional child's education at a private nonsectarian school, institution, or agency shall be approved pursuant to this chapter only if no publicly operated programs are

available to the pupil within a reasonable distance from his residence, or if such programs do not meet the specialized needs of the pupil, as determined under the procedures established by this chapter. Priority in approving private nonsectarian schools, institutions, or agencies shall be given to the nearest such school, institution, or agency from where the parent or guardian of the exceptional child resides and which provides training and education as defined in Section 56030.

In instances where public funds are paid to the parent or guardian of a pupil pursuant to this section, toward the tuition of such pupil enrolled in a private nonsectarian school, institution, or agency, the school, institution, or agency enrolling such pupil shall at the end of each school year submit a written progress report on each such pupil on forms provided by the Superintendent of Public Instruction, and shall forward such forms to the county superintendent of schools of the county authorizing placement. Such reports shall be used by the county superintendents of schools to determine continued eligibility for placement and reimbursement under this chapter.

In no event shall the total of any allowances or apportionments of state funds be made to a school district in behalf of a pupil receiving an allowance pursuant to this section in excess of the total of such amounts which would have been allowed or apportioned to the district if the pupil were in attendance at a school in the district.

56032. Whenever an admission committee is established for the purpose of determining eligibility for the tuition payments authorized by this article, the parent or guardian of the pupil shall have the rights of representation prescribed by Sections 56503, 56612, and 56706.

56033. The parent or guardian of a pupil who has been denied admission and who qualifies for tuition payment pursuant to Section 56031 shall make written application to the school district for the tuition payment prescribed in Section 56031. Within 30 days after receipt of the application, the school district shall in writing grant or deny the application, with reasons stated in case of a denial. If the application is denied, the parent or guardian may appeal to the county superintendent of schools, who shall review the decision of the school district and shall within 30 days after receipt of the appeal, either affirm or reverse the school district's decision. If the county superintendent of schools reverses the school district's decision, a report and claim shall be made by the school district in which the pupil resides, pursuant to Sections 56034 and 56035. Thereupon the county superintendent of schools may place and contract for the placing of the exceptional child in another school district within or without the county or county offering special educational services. The superintendent may then transfer to the district or county wherein the child is placed the amount of state aid the placing district receives for that child pursuant to Section 56035. If the county superintendent of schools affirms the school district's decision, the parent or guardian may, within 10 days following receipt of the

county superintendent of schools' decision, further appeal to the Department of Education for reconsideration. Within 30 days following receipt of the appeal, the department shall, in writing either affirm or reverse the decision of the county superintendent of schools, and in the case of an affirmation, shall append a statement of reasons. If the department affirms the decision of a county superintendent of schools that decision shall be final. If the department reverses the decision of a county superintendent of schools not to grant the application, a report and claim shall be made by the school district in which the pupil resides, pursuant to Sections 56034 and 56035.

56034. A school district having any pupil receiving the benefits of special education facilities and services under the provisions of Section 56031 shall pay to the parent or guardian of such pupil a monthly amount on a current basis toward the cost of tuition of such attendance. The monthly payments shall be based on estimated amounts computed pursuant to Section 56031 or the monthly tuition charge, whichever is lesser. The district shall report the attendance of such pupil and submit a claim for the regular and special-purpose apportionment to be used as reimbursement to the district for payment to the parent or guardian of such pupil, through the county superintendent of schools to the Superintendent of Public Instruction. The aforementioned report and claim shall be submitted at the time and in the manner prescribed by the Superintendent of Public Instruction. The county superintendent of schools shall verify the attendance reported and claim submitted in the manner prescribed by the Superintendent of Public Instruction.

56035. Upon verification of the attendance reported and the claim submitted, the Superintendent of Public Instruction shall apportion to the school district submitting the report and the claim of the parent or guardian of such pupil for the tuition in question an amount sufficient to satisfy the claim but not in excess of the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question and the amount allowable per unit of average daily attendance for the particular category under Section 41882, 41884, 41885, or 41886, and the amount allowable per unit of average daily attendance for the particular category under Section 41863. In the case of a multihandicapped pupil the amount apportioned shall not exceed the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question, the amount allowable per unit of average daily attendance under Section 41882, and the amount allowable per unit of average daily attendance for the particular category under Section 41863. The apportionments for physically handicapped, mentally retarded and multihandicapped shall be made from the funds reserved under the provisions of subdivision (c) of Section 41301. The apportionment for educationally handicapped shall be made from funds reserved under the provisions of subdivision (g) of Section 41301. The apportionment shall be made

for each fiscal year immediately following the fiscal year in which the attendance occurs.

56036. No claim shall be satisfied by the Superintendent of Public Instruction for the education of an exceptional child under this chapter unless the school, institution, or agency which the child will attend meets minimum educational standards established by the State Board of Education pursuant to Section 56037.

56037. Except as otherwise provided in Section 56038, the State Board of Education shall adopt, by rules and regulations, minimum educational standards which shall be met by any school, institution, or agency enrolling an exceptional child under the provisions of this article. Such minimum standards shall relate solely to the educational program to be offered by the school, institution, or agency.

56038. A claim concerning the attendance of an exceptional child at any school, institution, or agency in which there are insufficient numbers of properly credentialed teachers but which otherwise offers an acceptable educational program shall not be disallowed pursuant to Section 56036, if:

(a) The Department of Education has determined that there is in the area served by the school, institution, or agency a shortage of properly credentialed teachers, and

(b) The Department of Education determines that the needs of the exceptional children to be served by the school, institution, or agency will be more adequately served through an education at the school, institution, or agency than they would be if the children remain in their existing educational environments.

At such time that the Department of Education determines that there is in the area served by the school, institution, or agency a sufficient number of properly credentialed and employable teachers, the department shall require that properly credentialed teachers be employed by the school, institution, or agency before a claim may be satisfied for the education of an exceptional child at the school, institution, or agency.

This section shall apply only to a school, institution, or agency, enrolling an exceptional child under this chapter, which is situated in this state.

#### Article 4. Grants to Teachers of Physically Handicapped or Mentally Retarded Pupils

56050. The governing board of a school district or a county superintendent of schools, in order to assure having teachers qualified to teach physically handicapped and mentally retarded pupils enrolled in programs of special education maintained by such district or the county superintendent of schools, and any employee of the district or the county superintendent of schools holding a position requiring certification qualifications, or any certificated person under contract to the district or the county superintendent of schools to teach physically handicapped or mentally retarded

pupils, may enter into an agreement whereby the district or the county superintendent of schools may make a grant of financial assistance, in such amount not in excess of that specified in Section 56052, as they may in writing agree upon, for the said employee or certificated person under contract to undertake during the summers between academic school years specialized preparation to teach physically handicapped or mentally retarded minors as required by law and State Board of Education regulations.

56051. Not later than October 31 of each year the Superintendent of Public Instruction shall allow to each school district or county superintendent of schools making grants to employees or certificated persons under contract pursuant to the provisions of this article an amount sufficient to reimburse each such district or county superintendent of schools for the total of such grants made during the summer immediately preceding pursuant to the provisions of Section 56052.

56052. The amount of reimbursement allowed a school district or county superintendent of schools pursuant to Section 56051 for each such grant for specialized preparation undertaken during any given summer by any given employee or certificated person under contract shall not exceed the product of the number of semester hours taken in any given summer and fifty dollars (\$50). The total amount of reimbursement allowed for all such grants to any given employee or certificated person under contract undertaking such specialized preparation shall not exceed the product of the number of semester hours of specialized preparation required by law and State Board of Education regulations for the credential to teach the category of physically handicapped or mentally retarded pupils being sought and fifty dollars (\$50). No more than five years shall elapse between the first and final allowance in reimbursement of such grants for any given employee or certificated person under contract except by approval of the Superintendent of Public Instruction upon the recommendation of the governing board of the school district or the county superintendent of schools of such employee or certificated person under contract.

56053. The Superintendent of Public Instruction shall, upon approval of the State Board of Education, establish rules and regulations for the administration of the provisions of this article.

#### Article 5. Loans to Teachers of Educationally Handicapped Pupils

56060. In order to assure having for the ensuing year certificated personnel qualified to teach educationally handicapped pupils, as defined in Section 56600, enrolled in programs of special education maintained by a school district or a county superintendent of schools, the governing board of the school district or the county superintendent of schools may enter into an agreement with any employee holding a position requiring certification qualifications

who teaches, or any certified person under contract to teach, educationally handicapped pupils for the ensuing school year for the school district or the county superintendent of schools, whereby the school district or the county superintendent of schools may make a loan of financial assistance, in such amount not in excess of that specified in Section 56062, as they may in writing agree upon, for such employee or certificated person under contract to undertake during the summers between academic school years specialized preparation, including courses, workshops, or specialized offerings, to teach educationally handicapped pupils, as approved by the Superintendent of Public Instruction.

56061. Not later than October 31 of each year, the Superintendent of Public Instruction shall allow, out of funds appropriated to the Department of Education for the purpose, to each school district or county superintendent of schools making loans pursuant to the provisions of this article an amount sufficient to reimburse each such district or county superintendent of schools for the total of such loans made during the summer immediately preceding pursuant to the provisions of Section 56062.

56062. The amount of reimbursement allowed a school district or county superintendent of schools pursuant to Section 6791 for each such loan for specialized preparation undertaken during any given summer by any given employee or certificated person under contract shall not exceed the product of the number of semester hours taken in any given summer multiplied by fifty dollars (\$50). The total amount of reimbursement allowed for all such loans to any given employee or certificated person under contract undertaking such specialized preparation shall not exceed the product of 30 semester hours multiplied by fifty dollars (\$50). No more than five years shall elapse between the first and final allowance in reimbursement of such loans for any given employee or certificated person under contract.

56063. Loans made pursuant to this article shall be repaid to the Department of Education pursuant to rules and regulations adopted by the Superintendent of Public Instruction.

There shall be allowed a 20-percent credit in the repayment of a loan for each year the recipient of the loan teaches educationally handicapped minors.

56064. The Superintendent of Public Instruction shall establish rules and regulations for the administration of the provisions of this chapter and shall employ personnel necessary for the efficient administration of this article and Article 4 (commencing with Section 56050) of this chapter.

#### Article 6. Occupational Training for Physically Handicapped and Mentally Retarded Pupils, Sheltered Workshops

56070. The State Board of Education may adopt rules and regulations governing the establishment and conduct of programs

for preparing physically handicapped and mentally retarded pupils enrolled in special day classes for suitable occupations. Such programs shall provide for physically handicapped and mentally retarded pupils under the age of 21 years who are unable to profit by courses of work experience education as provided in Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of this division.

56071. For the purposes of this article, "minor" means any person under 21 years of age notwithstanding Section 25 of the Civil Code or any other provision of law.

56072. School districts and county superintendents of schools may contract with sheltered workshops and other work establishments approved for supervised occupational training of physically handicapped and mentally retarded pupils under the age of 21 years, and reimburse such sheltered workshops and work establishments for the expenses incurred in the training of such pupils.

The Superintendent of Public Instruction shall reimburse school districts and county superintendents of schools for the cost per pupil per year, or fraction thereof, for the services provided by sheltered workshops and work establishments.

Such reimbursement shall be the cost of such service not to exceed six hundred fifty dollars (\$650) per year, less the share of the school district or county superintendent of schools, as determined pursuant to rules and regulations adopted by the State Board of Education.

56073. The governing board of any school district, or the county superintendent of schools of any county, maintaining secondary schools may enter into contracts with the governing boards of other such school districts, or with a county superintendent of schools, and with any department or agency of the state to obtain or provide services and other assistance necessary in connection with providing effective rehabilitation services, to include but not limited to occupational training, mobility training, sheltered workshops and work-experience programs.

Any school district governing board, or the county superintendent of schools of any county, which enters into a contract with the State Department of Rehabilitation under this section may employ, or allow to be employed, in the school district or with a county superintendent of schools, employees of the State Department of Rehabilitation or other persons not employed by the department but certified by the department to be fully qualified for such employment. A certification to the Department of Education by the State Department of Rehabilitation that the individual meets all the requirements and fulfills all the qualifications of that department for the position for which he is being considered shall serve as evidence that the individual meets the academic, professional and experience requirements for a services credential with a specialization in pupil personnel services as a rehabilitation counselor or mobility instructor for the blind, in accordance with requirements adopted by the Commission for Teacher Preparation and Licensing, which the

individual must obtain in order to render services in the public schools.

Notwithstanding any other provision of this code, when an individual is so certified by the State Department of Rehabilitation as qualified for employment, other teacher certification requirements required by this code or by Title V of the California Administrative Code shall be waived for that individual.

56074. County superintendent of schools, high school districts and unified school districts which do not have a sheltered workshop available to them within a reasonable commuting distance may sponsor or operate sheltered workshops or training centers for handicapped students and individuals eligible to attend high school or adult school, develop job-training situations based upon the capabilities of the individual by entering into contracts or subcontracts to produce goods for, and provide services for public and private agencies, private business and industry, and pay such students and individuals on a piece-rate basis from revenues derived from any source not otherwise prohibited by law, as regulated by state and federal wage and hour laws applicable to persons employed in a sheltered workshop.

56075. The governing board of a high school district or unified school district, the administration in charge of a regional occupational center or regional occupational program, or a county superintendent of schools, hereinafter referred to as the "agency" may establish and operate a sheltered workshop or new rehabilitation service. Prior to commencing such a sheltered workshop or new rehabilitation service, however, an agency shall publish, not less than 30 days before the commencement of such a workshop or rehabilitation service, its intention to operate a sheltered workshop or new rehabilitation service in a newspaper of general circulation within the area in which such sheltered workshop or new rehabilitation service will be commenced, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the county in which such sheltered workshop or new rehabilitation service will commence. In addition, a copy of such publication, along with the pertinent details of the sheltered workshop or new rehabilitation service, shall be sent to the Department of Education and the State Department of Rehabilitation. Said departments may comment on the advisability of commencing such sheltered workshop or new rehabilitation service, or any other aspect of such sheltered workshop or new rehabilitation service deemed advisable, to the agency planning to commence such a sheltered workshop or new rehabilitation center and if commented upon, shall make their comments available to the public.

56076. As used in this article, "rehabilitation facility" is defined to mean an organization and physical facility, publicly, privately, or cooperatively sponsored, in which a program of integrated and coordinated services is offered. These services are provided for

emotional, developmental, social and vocational restoration or personal adjustment of adults and minors with handicaps and disabilities. The range of services may include, but not be limited to, evaluation, education, training, sheltered or extended employment and placement. A rehabilitation facility shall include, but not be limited to, a sheltered workshop, activity center, semisheltered workshop, and facilities which provide work skills development programs.

#### Article 7. Notice to Parents Prior to Placement

56130. No pupil may be required to participate in any special class or program unless the parent or guardian of the pupil is first apprised of the facts which make participation in the special program necessary or desirable.

56131. For the purposes of this article, "special class or program" includes any class or program for which a criterion for participation involves the physical or mental condition of the pupil, as defined by the State Board of Education, that would qualify him for placement in a special education program.

#### Article 8. Handicapped Minors From State Hospitals

56140. As used in this article:

(a) "Regional center or other local agency," means a regional center established pursuant to Chapter 3 (commencing with Section 38100) of Division 25 of the Health and Safety Code, or a local agency which performs the services of a regional center, and any local agency providing community mental health services for the mentally disordered pursuant to Chapter 1 (commencing with Section 5600) of Part 2 of Division 5 of the Welfare and Institutions Code.

(b) "Development center," means a development center for handicapped minors established pursuant to Sections 56800 to 56831, inclusive, and 56833.

(c) "County of placement," means the county providing the educational program, or the county in which the school district providing the educational program is located, and to which a minor has been or will be transferred from a state hospital.

(d) "Handicapped minor," means any minor coming within the definition of "handicapped children" in Section 56000 and, for purposes of this article, a mentally disordered minor, or any minor eligible for enrollment in a development center or in an educational program for handicapped minors maintained by a school district or a county superintendent of schools.

56141. When a handicapped minor between the ages of 3 and 18 is deemed to need an educational training program, the appropriate regional center or local mental health program shall send a notice to the county superintendent of schools of the county of residence of

such minor and to the county superintendent of schools of the county of placement where such minor is proposed to be transferred from the state hospital.

56142. After having received notification of the proposed transfer pursuant to Section 56141, the county superintendent of schools of the county of placement shall, within 30 days, certify to the Superintendent of Public Instruction and to the Director of Health whether or not appropriate public or private educational facilities and programs exist or are planned in the county for the minors proposed to be transferred.

56143. If appropriate public or private educational training facilities or programs are not available or are not planned in the county or counties of placement, the county superintendent shall report to the county mental health advisory board, the county mental health program or the regional center and the developmental disabilities area board, whichever is appropriate. This data shall be used in the development of the annual county mental health plan, or the annual developmental disabilities area plan, or in both such annual plans.

56144. The Superintendent of Public Instruction shall report annually to the State Board of Education and to the Commission on Special Education in the Department of Education the number of handicapped minors transferred from a state hospital to a regional center or other local agency, who are not currently enrolled in a public or private educational program.

56145. In the event that state apportionments authorized for pupils transferred to local jurisdictions requiring development center services for handicapped minors are insufficient to provide programs for all such eligible minors, the Superintendent of Public Instruction shall prepare a supplemental budget request to provide funds sufficient to apportion one dollar and seventy-five cents (\$1.75) per hour of attendance of each such eligible minor for operating costs of development centers pursuant to Section 56810 and six hundred seventy-five dollars (\$675) per each such unit of average daily attendance for the reimbursement of transportation expenses pursuant to Section 56830.

The Superintendent of Public Instruction shall furnish a copy of the budget to the appropriate developmental disabilities area board or local mental health program.

#### Article 9. Experimental Programs

56160. Pupils who are deaf, severely hard of hearing, blind, deaf-blind, or other multihandicapped pupils as determined by the State Board of Education, and who are between the ages of 18 months and 3 years, may be enrolled in experimental programs conducted by a school district or county superintendent of schools. Experimental programs for such minors shall be approved in advance by the Superintendent of Public Instruction and shall be

conducted in accordance with rules and regulations established by him. Instruction in such experimental programs shall be afforded by a teacher possessing full qualifications to teach deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped pupils as prescribed by rules and regulations of the Commission for Teacher Preparation and Licensing.

Notwithstanding any provision of this code to the contrary, attendance of deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped pupils enrolled in experimental programs authorized by this section shall be credited to the school district or county superintendent of schools providing such instruction in the same manner as authorized for minors receiving special schooling pursuant to this chapter and Sections 1850 to 1855, inclusive, and Section 41308.

Notwithstanding any provision of this code to the contrary, computations of allowances and apportionments from the State School Fund for deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped pupils enrolled in experimental programs authorized by this section shall be credited to the district or county superintendent of schools providing such instruction in the same manner as authorized for pupils receiving special schooling pursuant to this article and Sections 1850 to 1855, inclusive, and Section 41308.

Notwithstanding any provision of this code to the contrary, physically handicapped pupils as described in Section 1856 shall include deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped pupils enrolled in experimental programs authorized by this section.

56161. Physically handicapped pupils who come within any one or more of subdivisions (a), (b), (c), (d), (e), and (h) of Section 56701 and who are between the ages of 18 months and 3 years, may be enrolled in experimental programs conducted by a county superintendent of schools upon the prior approval of the Superintendent of Public Instruction pursuant to this section. Experimental programs for such pupils shall be conducted in accordance with rules and regulations established by the Superintendent of Public Instruction.

In no case shall the Superintendent of Public Instruction authorize more than one such experimental class in a county, and no more than five county superintendents of schools may conduct programs pursuant to this section.

Notwithstanding any provisions of this code to the contrary, transportation allowances for such pupils and computations of allowances and apportionments from the State School Fund for such pupils shall be credited to county superintendents of schools providing instruction pursuant to this section, in the same manner as authorized for pupils receiving special schooling pursuant to this chapter and Sections 1850 to 1855, inclusive, and Section 41308; provided, that the total of all such allowances and apportionments made for each fiscal year pursuant to this section shall not exceed one

hundred twenty-five thousand dollars (\$125,000).

This section shall remain in effect only for a period of two years following September 27, 1974, and shall have no force or effect on or after such date.

The Superintendent of Public Instruction shall, not later than January 1, 1976, report to the Legislature with recommendations regarding the extension of this section.

56161.5. The governing board of any school district or a county superintendent of schools, with the approval of the county board of education and the Superintendent of Public Instruction, may establish and maintain an experimental program for deaf or severely hard-of-hearing children who are at least six months of age. Not more than two such experimental programs shall be established pursuant to this section. Program approval shall be given to such school district or county superintendent of schools which is presently operating such a program or which is otherwise prepared to undertake the type of program authorized by this section.

With the approval of the Superintendent of Public Instruction, these experimental programs shall be permitted to operate differently from regular class programs. The Superintendent of Public Instruction may, upon application of the governing board or county superintendent of schools, as the case may be, waive such provisions of this code as he deems necessary in order to provide the necessary flexibility for these experimental programs.

It is the intent of the Legislature that, in connection with these experimental programs, proper recognition be given to the needs of parents, through provision of parents' home training and parent counseling, the audiological needs of the child, and the purchase of necessary supplies and equipment. The Legislature also intends that proper recognition be given to the need for the promotion and initiation of early identification activities. However, for the purposes of these experimental programs, it is not intended that actual identification activities be undertaken of the infant population at large.

The Superintendent of Public Instruction shall prepare and submit to the Legislature 24 months after initiation of such a program, but no later than July 1, 1977, an interim evaluation report of the results of the programs, and no later than June 30, 1978, a final evaluation report of the results of the programs. Authorization to conduct such experimental programs shall expire on July 30, 1978.

56162. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

56162. Physically handicapped pupils who because of another primary handicap, as defined in Sections 56501, 56515, 56600, 56700, and 56701, are already enrolled in special education classes or are receiving special services in programs conducted by a county superintendent of schools are eligible to receive experimental individualized instruction conducted by a county superintendent of schools, upon the prior approval of the Superintendent of Public Instruction, pursuant to this section. Experimental programs for such pupils shall be conducted in accordance with rules and regulations established by the Superintendent of Public Instruction

In no case shall the Superintendent of Public Instruction authorize more than five county superintendents of schools to conduct programs pursuant to this section.

Any county superintendent of schools approved to conduct an experimental individualized instruction program pursuant to this section shall be entitled to an apportionment equal to the amount which would have been credited to him if such pupils had been enrolled in a program for individual instruction authorized under subdivision (e) of Section 56702; provided, that the total of all such allowances and apportionments made for each fiscal year pursuant to this section shall not exceed sixty-five thousand dollars (\$65,000) and the total of all such allowances and apportionments made to any one such county superintendent of schools in any one fiscal year shall not exceed thirteen thousand dollars (\$13,000).

This section shall remain in effect for a period of two years following September 27, 1974, and shall have no force or effect on or after such date.

The Superintendent of Public Instruction shall, not later than January 1, 1976, report to the Legislature with recommendations regarding the extension of this section.

## CHAPTER 2. EDUCATIONAL SERVICES FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS

### Article 1. General Provisions

56300. The Legislature finds and declares that the current range of educational programs for individuals with exceptional needs has developed over time in response to the specific needs of identifiable groups. These programs were established without particular regard to gradations in the severity of disabilities among individuals in such programs. Consequently, there are 28 separate programs for individuals with exceptional needs which tend to segregate them on the basis of their disabilities. Many individuals with exceptional needs are not served by any existing program with the result that they are either inappropriately placed in one of those programs or they are excluded from receiving any educational program or service. Moreover, some existing programs for individuals with exceptional needs are statutorily permissive so that some who would otherwise be eligible do not have access to such programs.

56301. The Legislature finds and declares that all individuals with exceptional needs have a right to participate in appropriate programs of publicly supported education, and that the existing educational programs for these persons are in need of revision in order to assure them of this right to an appropriate educational opportunity.

It is the further intent of the Legislature that such pupils be returned to the regular class when special education services are no longer needed.

Furthermore, it is the intent of the Legislature that the comprehensive restructuring of current educational programs for individuals with exceptional needs required by this chapter should be systematically implemented in no more than 10 local comprehensive plans during fiscal years 1975-76, 1976-77, and 1977-78. Thereafter, statewide implementation of this chapter shall be determined by the Legislature.

Therefore, the Legislature hereby authorizes the Superintendent of Public Instruction to implement and administer, under a master plan adopted by the State Board of Education, a pilot program to determine if the educational services provided under this chapter will better meet the educational requirements of individuals with exceptional needs. This pilot program shall provide that:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs through an individually developed plan in publicly supported programs.

(b) Early educational opportunities are available to children between the ages of three and five who require intensive service in special programs.

(c) Early educational opportunities may be made available to children younger than three years of age who require intensive service in special programs at the discretion of local educational agencies.

(d) Education programs are provided under an approved plan for special education which comprehensively sets forth the elements of the programs in accordance with the provisions of this chapter.

(e) Individuals with exceptional needs are offered special assistance in a program which promotes maximum interaction with the general school population in a manner which is appropriate to the needs of both.

(f) Educational programs are coordinated with other public and private agencies.

(g) Continuous evaluation of the effectiveness of these special education programs by the responsible local agency shall be made to insure the highest quality educational offerings.

56302. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the State Board of Education.

(b) "Department" means the Department of Education.

(c) "Individuals with exceptional needs" means all pupils whose educational needs cannot be met by the regular classroom teacher with modification of the regular school program, who require the benefit of special instruction and services, and who are one of the following:

(1) Between the ages of three and four years and nine months, inclusive, who have been identified by the educational assessment service as defined by subdivision (b) of Section 56336 as requiring an intensive full-time special education service as defined by the State Board of Education.

(2) Between the ages of four years and nine months and 18 years of age, inclusive, whose educational needs cannot be met by the regular classroom teacher in the regular school program.

(3) Aged 19 or 20 who were enrolled in or eligible for a program under this chapter or other special education program prior to their 19th birthday and who have not yet completed their prescribed education program. Any such person who becomes 21 years of age

while participating in a program under this chapter may be permitted by the responsible local agency to continue his or her participation in the program for the remainder of the then current school year.

This definition does not include persons whose educational needs are due solely or primarily to unfamiliarity with the English language or to cultural differences.

(d) "Local comprehensive plan" means a plan which meets the requirements of Article 3 (commencing with Section 56330) of this chapter and which is submitted by a responsible local agency.

(e) "Parent" or "guardian" as used in this chapter includes any person having legal custody of a child. "Parent" or "guardian," in addition, includes any adult pupil for whom no guardian has been appointed and the person having custody of a minor if neither the parent or legal guardian can be notified of the educational actions under consideration.

(f) "Responsible local agency" means the school district or office of the county superintendent of schools designated in the local comprehensive plan as the agent responsible for the coordination of the plan.

(g) "Special education" means programs or services designed to meet the educational requirements of individuals with exceptional needs. Communicatively handicapped programs serve those pupils with disabilities in one or more of the oral communication skills such as listening and speaking. Physically handicapped programs serve those pupils with physical disabilities such as vision and mobility impairments and orthopedic or other health impairments. Learning handicapped programs serve pupils with significant disabilities in learning or behavior such as learning disabilities, behavior disorders, and educational retardation. Severely handicapped programs serve pupils with profound disabilities and who require intensive instruction and training such as the developmentally handicapped, trainable mentally retarded, autistic, and seriously emotionally disturbed.

(h) "Superintendent" means the Superintendent of Public Instruction.

56303. This chapter shall apply, and the following sections shall not apply, to districts and counties to the extent of an approved comprehensive plan and the programs conducted thereunder: Sections 1261, 1711, Sections 1850 to 1855, inclusive, Sections 41308, 41863, 41864, 41866, 51051, 51052, Article 10 (commencing with Section 1880) of Chapter 6 of Part 2 of Division 1 of Title 1, Article 11 (commencing with Section 41880) of Chapter 5 of Part 24 of Division 3 of this title, Article 3 (commencing with Section 56030), Article 6 (commencing with Section 56070), Article 7 (commencing with Section 56080) of Chapter 1, Chapter 3 (commencing with Section 56500) to Chapter 6 (commencing with Section 56800), inclusive, of this part.

56304. Except as provided in paragraphs (2) and (3) of

subdivision (c) of Section 56337, every individual with exceptional needs, as defined pursuant to Section 56302, who is eligible to receive such educational services authorized under this chapter is entitled to educational programs or services free of charge in the public schools of this state.

## Article 2. Administration

56310. The State Board of Education shall:

(a) Establish and periodically update the California Master Plan for Special Education.

(b) Adopt rules and regulations necessary for the efficient administration of this chapter.

(c) Adopt criteria and procedures for the review and approval of local comprehensive plans submitted under Sections 56313, 56314, and 56315.

(d) Approve no more than 10 local comprehensive plans for a period not to exceed three years.

(e) Adopt criteria and procedures for the evaluation of all educational programs and services provided under the California Master Plan for Special Education and report annually thereon to the Legislature and the Governor.

(f) Recommend to the Commission for Teacher Preparation and Licensing standards for the certification of teacher personnel for special education programs conducted pursuant to this chapter.

(g) Make recommendations to the Department of Health and out-of-school agencies to assure an appropriate education for individuals with exceptional needs consistent with the standards applicable to the public schools.

56311. Any responsible local agency in its application for approval of a plan, may request the board to grant a waiver of the provisions of any specifically enumerated sections of this code except Sections 56304, 56330, 56337, 56338, 56340, 56341, and 56352, Chapter 1 (commencing with Section 44000) of Part 25, or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of this title, if such waiver is necessary to establish and operate a special education program.

The board, after considering the recommendation of the superintendent, may grant, in whole or in part, any such request when the facts indicate that failure to do so would hinder the implementation or maintenance of the special education program.

56312. The superintendent shall administer the provisions of this chapter and shall:

(a) Grant preliminary approval of the organization of the local comprehensive plans within each county.

(b) Review and recommend to the board for approval, local comprehensive plans developed and submitted in accordance with this chapter.

(c) Encourage experimentation and innovation in the field of

special education at the school, district, county, and state levels.

(d) Monitor the implementation of local comprehensive plans by conducting onsite audits as appropriate.

(e) Encourage the maximum practicable involvement of parents and guardians of children enrolled in special education classes.

(f) Make recommendations in the areas of in-service training for teachers and teacher aides, curriculum, testing and testing mechanisms, and the development of materials for special education classes.

(g) Prepare for board approval as necessary, any state plan required by federal law in order that this state may qualify for any federal funds available for the education of individuals with exceptional needs.

(h) Maintain the state special schools in accordance with Part 32 (commencing with Section 59000) of this division, Part 43 (commencing with Section 70000) of Division 6 of Title 3 so that such schools may supplement the services of responsible local agencies.

(i) Develop in accordance with Section 56351 an annual evaluation report of special education programs authorized under this chapter for submission to the board.

(j) Apportion funds in accordance with Article 5 (commencing with Section 56360) of this chapter and approved local comprehensive plans.

(k) Assist districts and counties in the development of local comprehensive plans under this chapter, and resolve differences between them on aspects of the local comprehensive plan.

(l) Assist districts and counties in the improvement and evaluation of their programs.

(m) Provide review to any parent, guardian, or adult pupil who is denied educational services under this chapter as provided in subdivision (b) of Section 56341.

56313. Each county superintendent of schools may:

(a) With the approval of the county board of education, submit to the Superintendent of Public Instruction a local comprehensive plan for the education of all individuals in the county with exceptional needs except for those individuals served by districts within such county pursuant to a district-prepared local comprehensive plan. Any such plan may include more than one county and districts in more than one county. Such plans shall meet the requirements of local comprehensive plans set forth in Article 3 (commencing with Section 56330) of this chapter.

(b) Carry out any responsibility assigned to him pursuant to a local comprehensive plan.

56314. The county superintendent of schools shall:

(a) Submit to the superintendent, a description of how districts within the county intend to develop local comprehensive plans, if any, together with his comments thereon.

(b) Review any proposed local comprehensive plan submitted by a district, and send it with his comments and recommendations, if

any, back to the district within 45 days.

(c) Submit any final district local comprehensive plans to the superintendent with recommendations within an additional 30 days.

(d) Assure that any district plan reviewed by him is compatible with other district plans in the county and any county plan.

(e) Submit any county plan to the Superintendent of Public Instruction.

(f) Review the district's implementation of an approved local comprehensive plan and report thereon to the district and the Superintendent of Public Instruction.

(g) Consider any appeal made to him from a decision of a responsible local agency under subdivision (a) of Section 56341.

(h) Coordinate the development of local comprehensive plans in the county to insure that special education services are provided to all individuals with exceptional needs.

56315. The governing board of a school district may elect to do one of the following:

(a) Adopt, in accordance with Section 56330, a local comprehensive plan for the education of all individuals with exceptional needs residing in the district.

(b) In conjunction with one or more other districts, adopt, in accordance with Section 56330, a local comprehensive plan for the education of all individuals with exceptional needs residing in such districts. Such plan shall designate one of the participating districts as the responsible local agency to insure that the provisions of the plan are satisfied. Any participating district may perform any of the services required by the plan.

(c) Join with the office of a county superintendent of schools to adopt, in accordance with Section 56330, a local comprehensive plan for the education of all individuals with exceptional needs residing in the district. Such plan may provide that the district perform some of the educational services required by the plan.

56316. In developing a local comprehensive plan under Section 56315, each district shall:

(a) Cooperate with the office of the county superintendent of schools and other school districts in the geographic area in planning its option under Section 56315 and notify the office of the county superintendent of schools of its selection at a time specified by the Superintendent of Public Instruction.

(b) Cooperate with the office of the county superintendent of schools to assure that the plan is compatible with other local comprehensive plans in the county and any county plan of a contiguous county.

(c) Submit to the office of the county superintendent of schools for review any plan developed under subdivision (a) or (b) of Section 56315.

56317. Any county superintendent of schools or governing board of a school district shall carry out the responsibilities assigned to it in a local comprehensive plan, may provide for the education of

individual children in special education programs maintained by other districts or counties, and may include within their special education programs children who reside in other districts or counties. Section 46600 shall apply to interdistrict attendance agreements for programs conducted pursuant to this chapter.

### Article 3. Elements of Local Comprehensive Plans and Programs

56330. Any local comprehensive plan submitted under this chapter shall:

(a) Provide for seeking out all individuals with exceptional needs residing in the area served by the plan, including preschool and other children not currently enrolled in school programs, the assessment of their exceptional needs, and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Assessment procedures shall also include an educational assessment of the person's development in cognitive, affective, and sensory motor functioning.

(b) Provide for differential grouping of individuals according to their identified needs.

(c) Describe how each of the components set forth in Section 56332 will be made available to meet the needs of all individuals with exceptional needs who are or may be identified.

(d) Include evaluation procedures as set forth in Article 4 (commencing with Section 56350) of this chapter.

(e) Provide for an advisory committee to the responsible local agency composed of parents and guardians, including parents and guardians of individuals with exceptional needs, regular classroom teachers, special education teachers and other school personnel, and representatives of other public and private agencies and persons concerned with the needs of individuals with exceptional needs. The majority of such committee shall be composed of parents and guardians and shall advise the district, county, or other responsible local agency in the development of the local comprehensive plan and the evaluation of programs under such plan.

(f) Describe the procedures for notifying parents of the steps in the assessment procedures pursuant to Section 56337.

(g) Describe how and to what degree the district or county intends to make use of the services offered by the state special schools and how pupils eligible for such services will be identified and referred to such schools.

(h) Set forth program objectives in terms of pupil performance.

(i) Provide for review of decisions as provided in Sections 56340 and 56341.

(j) Specify the number and responsibilities of program specialists required as described in Section 56335.

(k) Indicate maximum use of all existing local, state, and federal resources that are available to individuals with exceptional needs.

(l) Provide for curriculum development, in-service education, and consultation.

(m) Provide for appropriate qualified staff to fulfill the responsibilities of the plan consistent with the credentialing requirements of this code.

(n) Designate a responsible local agency as the agent of the parties to administer the plan.

(o) Provide opportunities for career development.

56331. Any plan submitted or approved under this chapter may include a preschool project for individuals with exceptional needs who are below the age of three but whose need for services under this chapter meets standards set by the State Board of Education.

56332. In addition to the general requirements of Section 56330, each local comprehensive plan submitted for approval under this chapter shall also include the following program components:

(a) Instructional components:

(1) Special classes and centers which enroll pupils with similar and more intensive educational needs. Such classes and centers shall enroll such pupils for a majority of the schoolday and shall facilitate their interaction with other pupils in the regular school program.

(2) A resource specialist program, as described in Section 56333.

(3) Designated instruction and specific services not normally provided in a regular or special class or by the resource specialist program.

(4) Nonpublic, nonsectarian school services, including services by public and private agencies, provided under contract with the responsible local agency when such services can more appropriately meet the needs of the pupil. Pupils enrolled in nonpublic schools under this subdivision shall be deemed to be enrolled in public schools for all purposes related to making apportionments and allowances from Section A of the State School Fund and Section 42238. In the event that a contract is entered into between a nonpublic, nonsectarian school and a responsible local agency under this subdivision, the school district shall be eligible to receive allowances under subdivisions (c) through (h) of Section 56360 for services that are provided to individuals with exceptional needs pursuant to the contract. The responsible local agency shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(b) Supportive components:

(1) Identification, assessment, and instructional planning as described in Sections 56335 and 56337.

(2) Management and support service as defined by the board.

(3) Special transportation services. This includes transportation in special vehicles, transportation for pupils not attending school of

residence, transportation to work stations and work-training programs, and providing room and board in lieu of transportation.

(4) Capital outlay to provide equipment and adequate, safe facilities for special education programs.

56333. The resource specialist program shall:

(a) Provide instruction and services for those pupils whose needs have been identified in a written instructional plan developed by the school appraisal team or the educational assessment service and who are assigned to regular classroom teachers for a majority of a schoolday.

(b) Coordinate educational services and guidance to individuals with exceptional needs and their parents or guardians.

(c) Provide consultant services, resource information, and material regarding individuals with exceptional needs to regular staff members and their parents or guardians.

(d) Coordinate with program specialists as described in Section 56335 in establishing, maintaining, and coordinating special education services.

(e) Evaluate pupil progress on a regular basis, revise individual instructional plans as appropriate, and refer pupils who do not indicate appropriate progress to the educational assessment service.

56334. (a) The resource specialist program described in Section 56333 shall be under the direction of a resource specialist who is a credentialed special education teacher or who meets standards prescribed by the State Board of Education, who has had three or more years of full-time teaching experience, and who has completed or is enrolled in an advanced preparation program in special education.

(b) Maximum caseloads for resource specialists shall be stated in the local comprehensive plan under standards established by the board.

(c) Each resource specialist shall be provided with one or more instructional aides.

(d) Resource specialists shall not be utilized as regular classroom teachers nor have specific pupils assigned to them for a majority of a schoolday. Resource specialists and aides shall be deemed to be pupil services employees for the purposes of Sections 33150 and 41402.

56335. A program specialist is a credentialed special education teacher with advanced training in the education of individuals with exceptional needs and with specialized knowledge of communicatively handicapped, physically handicapped, learning handicapped, or severely handicapped pupils. The program specialist shall assist the resource specialist and shall consult, coordinate, plan programs, provide curricular resources for, and assess program effectiveness in, the programs for individuals with exceptional needs. The program specialist shall also participate in each school's in-service training, research, program development and innovation of special methods and approaches.

56336. In addition to the requirements set forth in Sections 56330 and 56332, each plan shall also include at least the following levels of identification, assessment, and instructional planning:

(a) A school appraisal team. This team shall consist of the school administrator, resource specialist, designated instruction teachers, and appropriate program specialists. The team shall also utilize the services of the school psychologist, physician, social worker, nurse, counselors, and other pupil personnel workers as needed. The school appraisal team shall provide for a semiannual review of the progress of each pupil consistent with the standards for placement in the special education program, a review of each referral, confer with parents and guardians regarding program recommendations, develop a written instructional plan for each pupil provided special education services, and recommend specific special education program services in their school. The team shall refer to the educational assessment service those pupils who the team has determined require a more definitive assessment, those whose instructional plan has not been effective or those whose parents or guardians have requested such a review. The responsible local agency shall annually notify parents or guardians of their right to request a review by the educational assessment service whenever they believe the pupil is not making appropriate progress.

(b) An educational assessment service. This service shall consist of professional specialists representing health, psychology, social work, speech and language, management services, and diagnostic teaching, and shall perform the following functions:

(1) Review referrals from school appraisal teams and program specialists.

(2) Recommend needed additional assessments.

(3) Develop written instructional goals for each pupil who either has been required to leave the school of his residence, attend special classes or centers, or whose parent or guardian is appealing a school appraisal team decision.

(4) Recommend program components.

(5) Confer with parents and guardians.

(6) Coordinate community resources with those provided by the schools.

(7) Review program recommendations of pupils returning to the district or county from the state schools and hospitals.

(8) Refer selected pupils to the superintendent for further assessment or individual instructional planning in connection with the California Schools for the Deaf or Blind or the Diagnostic Schools for Neurologically Handicapped Children.

56337. (a) Whenever an assessment is to be conducted by a school appraisal team or an educational assessment service, the parent or guardian of the pupil shall be given written notice of the intended assessment at least 10 days prior to its scheduled date. This written notice shall be in ordinary and concise language and in the primary language of the pupil's home and shall fully explain the

procedure and objective of the assessment and the facts which make an assessment necessary or desirable. The written notice shall state that no educational placement will result from the assessment without the consent of the pupil's parent or guardian.

The assessment of any pupil referred to a school appraisal team or an educational assessment service shall be completed within 45 days of the referral. Those persons assessing the pupil shall maintain a complete and specific written record of diagnostic procedures employed, the conclusions reached, the suggested course of education or treatment best suited to the pupil's needs, its anticipated duration, and the specific objectives to be attained. Such assessment shall remain confidential and be used only for the administration of the special education programs, including, but not limited to, assuring that each special education program is meeting the objectives for the children assigned to it.

(b) Admission of a pupil to a special education program under this chapter shall be made only on the basis of an individual assessment according to standards established by the board and upon an individual recommendation of either a school appraisal team or an educational assessment service. Section 56506 shall apply to pupils admitted to special education programs under this chapter because of their educational retardation. Pupils admitted to special education programs prior to the implementation of this chapter on the basis of procedures and criteria in effect at the time of such admission shall be admitted to programs under this chapter on the same basis as pupils recommended by a school appraisal team or an education assessment service.

(c) The parent or guardian of the pupil shall be notified in writing in ordinary and concise language and in the primary language of the pupil's home, of the findings of the assessment, the recommended educational decision, and the reasons therefor. The notice shall state that:

(1) A conference with the parent or guardian and his or her representative will be scheduled upon request.

(2) If the parent or guardian disagrees with the recommended educational decision, he or she has the right to procure an independent assessment of the child from qualified specialists, as defined by rules and regulations of the board, which assessment will become a part of the pupil's record.

(3) Such independent assessment shall not be at the expense of the district or responsible local agency unless the district or agency agrees to pay the cost thereof.

(4) The parent or guardian has the right to have the recommended educational decision reviewed.

(d) Whenever a pupil transfers into a school district from another school district in which his last enrollment was in a special education program the administrator of a local program under this chapter may place the pupil in a comparable program for a period not to exceed 30 schooldays. Such an interim placement may be made without the

complete documentation specified in subdivision (a). Before the expiration of the 30-school day period such interim placement shall be reviewed by the school appraisal team or the educational assessment service and a final recommendation shall be made by the team or service in accordance with the requirements of this chapter. The team or service may utilize information, records, and reports from the admission proceedings of the school district or county program from which the pupil transferred.

(e) Any diagnostic procedure used for placement of individuals with exceptional needs shall be appropriate to the individual's ethnic, cultural, and linguistic background. All such procedures shall be approved by the board. No procedure shall be approved by the board which discriminates against any minority or ethnic group or fails to account for the home experience and environment of minority and ethnic groups.

(f) The board shall insure that a psychological assessment of pupils admitted to programs under this chapter because of their educational retardation or learning disability is conducted and interpreted by a credentialed school psychologist who is adequately trained and prepared to evaluate cultural and ethnic factors.

56338. No pupil may be required to participate in any special class or program under this chapter unless the parent or guardian of the pupil is first informed of the facts which make participation in the special program necessary or desirable and thereafter consents in writing to such participation.

After consultation with a member of the school appraisal team, such consent may be withdrawn at any time.

56339. Whenever a pupil is being assessed by a school appraisal team or an educational assessment service, the parents and guardians shall be notified in advance of their rights pursuant to Sections 56340 and 56341 that they have the right to present information to the team or service in person or through a representative, and to attend and participate in the meeting devoted to recommendations and program planning.

56340. (a) Any parent or guardian who disagrees with the findings or recommendations of the educational assessment service regarding the placement or services offered to his or her child, either in its initial evaluation or on its annual evaluation, has the right to request a review as provided for in this section and Section 56341. The purpose of the review shall be to determine whether to: (1) affirm the decision of the education assessment service regarding placement or services offered, (2) modify the recommendations of the education assessment service regarding placement or services offered, or (3) direct the responsible local agency to provide a contractual agreement for nonpublic, nonsectarian school services which are appropriate to meet the exceptional needs of the individual as set forth in paragraph (4) of subdivision (a) of Section 56332.

While such review is pending, unless the responsible local agency

and the parent or guardian agree otherwise, the pupil shall remain in his or her then current program or, if applying for initial admission to a public school, shall, with the written consent of the parent or guardian, be placed in the program recommended by the educational assessment service until the review is completed.

(b) The parent or guardian shall notify the superintendent of the responsible local agency within 30 days following receipt of the written decision of the educational assessment service if he or she intends to seek a review of such decision.

(c) The hearing before the superintendent of the responsible local agency or his designee shall be held within 30 days following receipt of such notice from a parent or guardian at a reasonable time and place, with at least two weeks notice to the parent or guardian of the date, time, and place of the hearing, and such hearing shall be recorded.

The parent or guardian shall have the right to represent himself or herself, or to select a representative, to have an interpreter present if necessary, to have access to all relevant school records, notwithstanding Section 48950, to present additional written or oral evidence, to call witnesses, and to request the presence of and question any person involved in the evaluation procedure and placement decision, and the notice of the hearing shall so state. School employees that are witnesses shall have the right to select a representative.

(d) Within 15 days after submission of all evidence and argument, the superintendent of the responsible local agency shall render his decision.

When the decision is rendered the parent or guardian shall be given written notice of the decision in ordinary and concise language and in the primary language of the pupil's home. The notice shall state that if a parent, guardian, or responsible local agency disagrees with the decision, the parent or guardian has a right to a further review.

56341. Any parent or guardian who disagrees with the finding, recommendation, or decision of a superintendent of a responsible local agency may petition for a review, within 30 days following receipt of the decision of the responsible local agency, to the Superintendent of Public Instruction whose decision shall be final. The Superintendent of Public Instruction shall afford the parent or guardian an opportunity to present an oral or written argument, or both, within 30 days following receipt of the appeal. Within 15 days after such argument, the Superintendent of Public Instruction shall render a written reasoned decision based upon the pupil's entire record, transmit a copy of the decision to the parent or guardian, and inform the parent or guardian of the effective date of the decision.

## Article 4. Evaluation, Audits, and Information

56350. Each responsible local agency shall submit to the Superintendent of Public Instruction at least annually a report in a form and manner prescribed by the superintendent. Such reports shall include that information necessary for the superintendent to carry out his responsibilities described in Section 56351 and such other statistical data, program descriptions, and fiscal information as the superintendent may require.

56351. Under the criteria and procedures adopted pursuant to subdivision (e) of Section 56310, the Superintendent of Public Instruction shall submit to the State Board of Education, the Legislature, the Governor, the United States Office of Education, and each responsible local agency an annual evaluation of the special education programs implemented under this chapter. This evaluation shall include:

(a) The degree to which the responsible local agency has served all individuals with exceptional needs.

(b) The degree to which the responsible local agency has integrated individuals with exceptional needs into the general school population, and the impact of such integration on individuals with exceptional needs and the rest of the student body.

(c) The extent to which individuals with exceptional needs met the objectives set for them in written instructional plans.

(d) A general assessment of the relative effectiveness of programs conducted under this chapter compared to special education programs not conducted under this chapter.

(e) The overall capability of the responsible local agency to implement the local comprehensive plan as approved by the State Board of Education.

Based on these annual evaluations the State Board of Education shall make recommendations to the Legislature on or before January 1, 1978, regarding the extension of the provisions of this chapter to all special education programs conducted in California.

56352. The annual reports required under Sections 56350 and 56351 shall also identify the numbers of individuals with exceptional needs, their racial and ethnic data, and the special education programs in the following classifications and subclassifications as further defined by the State Board of Education:

(a) Communicatively handicapped, including deaf, deaf and blind, severely hard of hearing, severely language handicapped including aphasic, and language and speech handicapped.

(b) Physically handicapped, including blind, partially seeing, orthopedically handicapped, and other health impairments including drug dependency and pregnancy.

(c) Learning handicapped, including educationally retarded and learning disabilities and behavior disorders.

(d) Severely handicapped, including developmentally handicapped, trainable mentally retarded, autistic, and seriously

emotionally disturbed.

56353. The superintendent shall periodically sponsor or conduct workshops and seminars for the education of district or county personnel assigned to and responsible for the evaluation of local special education programs.

56354. The superintendent shall review and conduct onsite audits of each program approved under this chapter. In performing such reviews and audits, the superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs.

#### Article 5. Funding of Special Educational Programs

56360. In addition to any other apportionments provided by law, the superintendent shall apportion from the State School Fund to each school district and office of the county superintendent of schools participating in a local comprehensive plan, through the coordination of the responsible local agency, the following allowances for the fiscal year ending June 30, 1976:

(a) For each special class, the sum of seventeen thousand five hundred dollars (\$17,500).

(b) For each special center for the severely handicapped, the sum of seventeen thousand five hundred dollars (\$17,500) per class.

(c) For each resource specialist program, the sum of twenty thousand four hundred forty dollars (\$20,440).

(d) For designated instruction and services, the sum of twenty dollars (\$20) per instructional hour per specialist.

(e) For non-public-school services, the maximum sum of one thousand four hundred sixty dollars (\$1,460) per pupil enrolled in a nonpublic school.

(f) For identification, assessment and instructional planning, the sum of one hundred dollars (\$100) per pupil enrolled in special education services, apportioned as follows: educational assessment services at seventy dollars (\$70) per pupil; and program specialists at thirty dollars (\$30) per pupil.

(g) For management and support services, the sum of fifty dollars (\$50) per pupil enrolled in special education services, apportioned as follows: instructional materials at fifteen dollars (\$15) per pupil; equipment at fifteen dollars (\$15) per pupil; evaluation services at five dollars (\$5) per pupil; and administrative services at fifteen dollars (\$15) per pupil. In addition to the above, the department shall apportion fifteen dollars (\$15) per pupil for instructional materials and fifteen dollars (\$15) per pupil for equipment for each new special education program approved under this chapter.

(h) For special transportation services, the amount of six hundred ten dollars (\$610) per unit of average daily attendance for those pupils eligible for such services as determined by rules and regulations adopted by the board.

(i) Each fiscal year, the superintendent shall adjust the amounts

set forth in subdivisions (a) through (h) to reflect the difference in costs due to fluctuations of monetary value. The adjustment factor shall be jointly determined by the Department of Education and the Department of Finance.

56361. It is also the intent of the Legislature to provide financial assistance on an equalization basis for capital outlay for individuals with exceptional needs. The superintendent shall develop a proposal that shall implement this intent in a report to the Legislature by January 1, 1976.

56362. For the 1976-77 fiscal year and each fiscal year thereafter, the department shall include in its budget for the State School Fund sufficient funds to make apportionments under this chapter and an amount sufficient for the administration by the department of the provisions of this chapter.

56363. Apportionments under this chapter shall be made by the superintendent as early as practicable in the fiscal year. Upon order of the Superintendent of Public Instruction, the State Controller shall draw warrants upon the money appropriated, in favor of the eligible districts or counties in the amounts ordered.

56364. (a) Where the approved local comprehensive plan provides for special centers under paragraph (1) of subdivision (a) of Section 56332 in lieu of development centers for handicapped pupils pursuant to Article 1 (commencing with Section 56800) of Chapter 6 of this part, the governing board or county superintendent of schools may levy and use the tax set forth in Section 56811 for the support of such centers.

(b) Where the approved local comprehensive plan provides for programs under this chapter by the county superintendent of schools, in lieu of the tax rate authorized in subdivisions (b), (c), and (d) of Section 2500, the county superintendent may levy a tax over the districts served for the operations of the county superintendent's programs in the comprehensive plan, but such tax shall not exceed the expenditures of his programs less the state aid for the pupils in the programs.

56365. Each district participating in special education programs authorized by this chapter shall maintain a fiscal effort with respect to each child participating in special education programs that is no less than the fiscal effort of the district per elementary, intermediate or secondary child not participating in a special education program. The department shall annually review individual district expenditures to assure the comparability of local support. This review shall be based on rules and regulations adopted by the board which take into account growth in district enrollment and increases in district costs.

56366. The department shall continuously monitor and review all special education programs approved under this chapter to assure that all funds appropriated to school districts under this chapter are expended for the purposes intended.

56367. This chapter shall have no force or effect after July 1, 1978.

## CHAPTER 3. MENTALLY RETARDED PUPILS

56500. "Mentally retarded pupils" means all pupils under the age of 21 years who because of retarded intellectual development as determined by individual psychological examination are incapable of being educated efficiently and profitably through ordinary classroom instruction.

56501. The education of mentally retarded pupils who are of compulsory school age and who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted shall be provided all eligible pupils in the manner set forth in Sections 56500 to 56534, inclusive, and in Sections 1880 to 1889, inclusive, and Section 1856. Such special education may be provided to mentally retarded pupils who are between 5 years 9 months and 6 years of age and those above compulsory school age and less than 21 years of age.

An annual report shall be made by each school district or county superintendent of schools to the Department of Education indicating the number of eligible pupils for whom no such special education is provided and the reason therefor.

56502. (a) Admission of a pupil to a special educational program for the mentally retarded established under the provisions of Sections 56500 to 56534, inclusive, and in Sections 1880 to 1887, inclusive, shall be made only on the basis of an individual evaluation according to standards established by the State Board of Education and upon individual recommendation of a local admission committee which shall include an administrator in charge of special education programs in the district or county or other administrator designated by the school district or county superintendent of schools, an experienced special education teacher, a school nurse, and a school psychologist who has examined the child under consideration for eligibility and placement.

Whenever possible, the person serving on the admission committee for mentally retarded pupils may also serve on the admission committee for educationally handicapped minors.

The admission committee shall use such medical reports as are needed to properly evaluate the child. The admission committee shall have the services or presence of other pupil personnel workers, educational specialists, school nurses, social workers, or physicians as the committee may require and request. Such recommendation shall include a statement that in the professional judgment of the members of the admission committee the pupil recommended for placement in any program for the mentally retarded can reasonably be expected to benefit from such placement. Any member of the local admission committee dissenting from the final committee recommendation shall attach to the final recommendation a statement of reasons for such objection.

(b) The administrative head of a school district or office of the

county superintendent of schools may make an interim placement of a pupil in a program for the mentally retarded for a period not to exceed 30 schooldays whenever a pupil transfers into the school district from another school district in which his last enrollment was in a program for mentally retarded pupils. Such an interim placement may be made without the complete documentation specified in subdivision (a). Before the expiration of the 30-day period such interim placement shall be reviewed by the admission committee and a final recommendation shall be made by the committee in accord with the requirements of this chapter. The committee may utilize information, records, and reports from the admission committee proceedings of the school district or county program from which the pupil transferred.

56503. Whenever any pupil is being evaluated for placement in a program for mentally retarded pupils by an admission committee pursuant to Section 56502, the parent or guardian of the pupil shall have the right to be present at all meetings of the admission committee concerning only that pupil, the right to a 48-hour prior written notice of such meetings, and may have a physician, optometrist, psychologist, social worker, or teacher, whether certificated or not, represent the pupil and present additional material, if any, to assist the admission committee in its determination with respect to the pupil.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the admission committee. The representative so selected may be an employee of the school district.

56504. The Legislature finds and declares that the people of California have a primary interest in providing equal educational opportunity to children of all ethnic, socioeconomic, and cultural groups and that pupils should not be assigned to special classes or other special programs for the mentally retarded if they can be served in regular classes.

The Legislature hereby finds and declares that there should not be disproportionate enrollment of any socioeconomic, minority, or ethnic group pupils in classes for the mentally retarded and that the verbal portion of the intelligence tests which are utilized by some schools for such placement tends to underestimate the academic ability of such pupils.

56505. Before any pupil is admitted to a special education program for mentally retarded pupils established pursuant to this chapter or Article 14 (commencing with Section 1880) of Chapter 6 of Part 2 of Division 1 of Title 1, the pupil shall be given verbal or nonverbal individual intelligence tests in the primary home language in which the pupil is most fluent and has the best speaking ability and capacity to understand. Such tests shall be selected from a list approved by the State Board of Education.

56506. No pupil shall be placed in a special education class for the mentally retarded if he scores higher than two standard deviations

below the norm, considering the standard error of measurement, on an individual intelligence test selected from a list approved by the State Board of Education except as provided in Section 56508.

No pupil shall be placed in a special education program for the mentally retarded when he is being tested in a language other than English if he scores higher than two standard deviations below the norm, considering the standard error of measurement, on the nonverbal intelligence test or on the nonverbal portion of an individual intelligence test which includes both verbal and nonverbal portions except as provided in Section 56508.

No pupil may be placed in a special education program for the mentally retarded unless a complete psychological examination by a credentialed school psychologist investigating such factors as developmental history, cultural background, and school achievement substantiates the retarded intellectual development indicated by the individual test scores. This examination shall include estimates of adaptive behavior. Until adaptive behavior scales are normed and approved by the State Board of Education, such adaptability testing shall include, but is not limited to, a visit, with the consent of the parent or guardian, to the pupil's home by the school psychologist or a person designated by the chief administrator of the district, upon the recommendation of the school psychologist, and interviews of members of the pupil's family at their home. If the language spoken in the home is other than English, such interviews shall be conducted in the language of the home.

In the case of a pupil whose primary home language is other than English, the psychological evaluation shall be conducted in the pupil's primary home language. It shall be administered by a credentialed school psychologist fluent in the language of the pupil. In the event such a person is not available, an interpreter qualified in the primary home language of the pupil shall be provided to assure effective communication between the pupil and the school psychologist administering the evaluation. The district shall provide the interpreter with in-service training in the application of evaluation techniques and procedures, such training to be given under the direction of a school psychologist according to guidelines established by the State Board of Education.

After a pupil has been screened and referred, written permission for the individual psychological evaluation shall be secured in a conference with a school official and the parent or guardian or his authorized representative. After the individual psychological evaluation is completed, the psychologist shall confer with the parent or guardian or his authorized representative regarding the recommendation to the admission committee. Following the admission committee meeting, a committee member shall meet with the parent or guardian or his authorized representative to discuss the committee conclusion and to obtain written permission for placement.

No pupil shall be placed in a special education class for the

mentally retarded without the written consent of the parent or guardian of the child after a complete explanation of the special education program. Permission documents for individual psychological evaluation, and placements, shall be written in English and in the language of the parent or guardian. Conferences and notices to inform the parent or guardian of the nature of the placement process, the committee conclusion, and the special education program shall be in the home language of the parent or guardian.

56507. If a parent or guardian objects to the withdrawal of his child or ward from a special education class or program provided pursuant to Section 56501 or 56515, he may request a hearing regarding such withdrawal. The hearing shall be held not less than 20 nor more than 30 days after the request is made.

For purposes of Section 56501, the hearing panel shall consist of a credentialed school psychologist, a teacher currently instructing a special education class at the same grade level in which the pupil is enrolled, but who is not an employee of the school district involved, and a special education administrator, each of whom shall be designated by the county superintendent of schools. In any case in which it is not practicable to secure the services on the panel of a person or persons having the qualifications herein specified, the county superintendent of schools may designate for service on the panel a person or persons not having such qualifications but whom the superintendent deems otherwise qualified to serve. The panel, by majority vote, may uphold or reverse the action taken by the district to withdraw the pupil from the program. The decision of the panel is binding upon the school district. Upon a decision by the panel to reverse the district decision, the pupil shall be readmitted to a special education class for the mentally retarded notwithstanding Section 56506, except that in no case shall a pupil scoring higher than one standard deviation below the norm, considering the standard error of measurement, be readmitted to such a class.

For purposes of Section 56515, the hearing panel shall consist of a credentialed school psychologist designated by the county superintendent of schools of the county in which the school is located, the medical director or his appointee of the nearest regional center for the mentally retarded, and a teacher, designated by the county superintendent of schools, currently instructing a special education class at the same grade level in which the pupil is enrolled, but who is not an employee of the school district involved. The panel, by majority vote, may uphold or reverse the action taken by the district to withdraw the pupil from the program. The decision of the panel is binding upon the school district. Upon a decision by the panel to reverse the district decision, the pupil shall be readmitted to a special education class for the mentally retarded notwithstanding Section 56506, except that in no case shall a pupil scoring higher than one standard deviation below the norm,

considering the standard error of measurement, be readmitted to such a class.

The hearings shall be conducted pursuant to rules and regulations adopted by the State Board of Education.

56508. In exceptional circumstances, after an examination of all pertinent information, including relevant cultural and adaptive behavior data, the admission committee may by unanimous vote agree to place a pupil in a special education class for the mentally retarded in spite of an individual test score higher than two standard deviations below the norm considering the standard error of measurement. The committee shall take notice of and be guided by the legislative intent expressed in Section 56504. Upon such unanimous agreement, a written report indicating the decision of the committee, and the reasons therefor, shall be sent to the parent or guardian of the pupil.

Beginning in the 1971-1972 school year, each school district shall report annually to the Department of Education:

(a) The ethnic breakdown of the children placed in special education classes for the mentally retarded in the district.

(b) The ethnic breakdown of the children newly placed in such classes:

(1) By the standard admissions procedure, and

(2) By the exceptional unanimous consent procedure described in this section.

If the percentage of children from any minority ethnic group in such classes varies by 15 percent or more from the percentage of such children in the district as a whole, an explanation for such variation shall be attached to the report to the Department of Education.

56509. The Superintendent of Public Instruction shall annually report to the State Board of Education on those districts in which there is a significant variance in racial and ethnic composition between special education classes for mentally retarded pupils established pursuant to Sections 56500 to 56534, inclusive, and the regular enrollment of the district.

56510. Mentally retarded pupils who come within the provisions of Section 56501 may be enrolled in integrated programs of instruction conducted by a school district or a county superintendent of schools.

(a) An integrated program of instruction for mentally retarded pupils shall be defined as a program in which mentally retarded pupils, who are enrolled in a special day class taught by a teacher holding a valid credential to teach exceptional children shall be so designated when they are integrated in regular classes in which the content and method of instruction has been modified to the extent the mentally retarded pupils can benefit from such integration.

The school district or county superintendent of schools conducting the integrated program of instruction shall be entitled to an apportionment equal to the amount which would have been credited to them had these pupils been enrolled full time in a special day class

for the mentally retarded.

(b) Whenever the number of mentally retarded pupils is less than six in each of one or more schools of a district or schools served by a county superintendent and the distance between any school also having mentally retarded pupils is excessive, prohibiting the reasonable transportation of pupils, such pupils may be instructed in the regular classes of the district or county with prior approval of the Superintendent of Public Instruction, providing an instructional aide is employed in each such regular class for the regular schoolday and that supervision of the instructional program for mentally retarded pupils is provided by a person holding credentials to teach the mentally retarded. School districts providing integrated programs under this subdivision shall be qualified for the individual apportionment under subdivision (h) of Section 41888.

(c) Such programs shall be conducted in accordance with rules and regulations established by the State Board of Education.

56511. Programs for mentally retarded pupils identifiable pursuant to Section 56502 are:

(a) Special day classes (elementary and secondary). A class established for mentally retarded pupils (as defined by Section 56502). The class shall be maintained for at least the minimum schoolday. The class shall be taught by a full-time teacher whose responsibility is to teach pupils enrolled in the class for the schoolday as established by the governing board for regular classes for pupils who are at the highest grade level in the special class.

(b) An integrated program of instruction. A program for mentally retarded pupils in which mentally retarded pupils, who are enrolled in a special day class taught by a teacher holding a valid credential to teach exceptional children, are integrated in regular classes in which the content and method of instruction has been modified to the extent that mentally retarded pupils can benefit from such integration. Such programs shall be conducted in accordance with rules and regulations established by the State Board of Education.

56512. The maximum enrollment of pupils enrolled in special day classes as defined by subdivision (a) of Section 56511 shall be 18 pupils except that when the chronological age span is more than four years the appropriate maximum enrollment shall be 15 pupils.

The Superintendent of Public Instruction may waive the maximum class size standards prescribed by this section whenever it approves a project submitted by a school district or county superintendent of schools to conduct experimental studies to determine the proper class size standards.

If after the beginning of the school year it is determined that classes are at maximum size, that additional pupils will be without schooling unless additional classes are established, and that additional qualified teachers are not available for employment, or additional classroom space is not available, a school district or a county superintendent of schools may, on forms provided for this purpose by the Department of Education, request permission of the

Superintendent of Public Instruction to exceed the maximum class size for all or a part of the remainder of the school year. The Superintendent of Public Instruction may approve such request for all or a part of the remainder of the school year, provided the maximum size is not increased by more than two pupils above the maximum enrollment specified, and the requesting district has consulted with the specific teacher involved. Such approval, when based on a lack of additional classroom space, shall not be given for any school year commencing July 1, 1977, or thereafter.

56513. Continuance of pupils in special education programs for the mentally retarded authorized under Section 56501 shall be the subject of annual review and recommendation by the local admission committee to determine whether continued placement in the special educational program is appropriate.

56514. No pupil shall be required to participate in a program for mentally retarded pupils unless the local admission committee or a member of the local admission committee appointed by such committee has personally consulted with the parent or guardian of the pupil regarding the retarded intellectual development of the pupil.

56515. The education of mentally retarded pupils who do not come within the provisions of Section 56501, who are six or more, and less than 18 years of age and who may be expected to benefit from special educational facilities designed to educate and train them to further their individual acceptance, social adjustment, and economic usefulness in their homes and within sheltered environment, shall be provided for in the manner set forth in Sections 56500 to 56543, inclusive, and in Sections 1880 to 1889, inclusive, and Section 1856. The education of such mentally retarded pupils who are three or more and less than six years of age may be provided for in the manner set forth in Sections 56500 to 56543, inclusive, and in Sections 1880 to 1889, inclusive, and Section 1856.

Any such pupil who becomes 18 years of age while in attendance upon a special training school or class shall be permitted to continue to attend thereon for the remainder of the time such school or class is maintained during the then current school year.

Notwithstanding other provisions of this section any such pupil who is participating regularly in an approved occupational training program in the manner set forth in Sections 56070 and 56072 may be permitted by the governing board of the district or county superintendent of schools, as the case may be, maintaining such training program to continue thereon until his 21st birthday.

The reference to "21st birthday" in this section is not affected by Chapter 1748 of the Statutes of 1971.

56516. Mentally retarded pupils identified pursuant to Section 56515 shall participate in a special day class program for mentally retarded pupils. The class shall be maintained for at least the minimum schoolday. The class shall be taught by a full-time teacher whose responsibility is to teach pupils enrolled in the class for the

school day established by the governing board for regular classes for pupils who are at the highest grade level in the special class.

56517. The maximum enrollment of pupils in a special day class (as defined by Section 56516) shall be 12 pupils.

The Superintendent of Public Instruction may waive the maximum class size standards prescribed by this section whenever he approves a project submitted by a school district or county superintendent of schools to conduct experimental studies to determine the proper class size standards.

If after the beginning of the school year it is determined that classes are at maximum size, that additional pupils will be without schooling unless additional classes are established, and that additional qualified teachers are not available for employment, or additional classroom space is not available, a school district or a county superintendent of schools may, on forms provided for this purpose by the Department of Education, request permission of the Superintendent of Public Instruction to exceed the maximum class size for all or a part of the remainder of the school year. The Superintendent of Public Instruction may approve such request for all or a part of the remainder of the school year, provided the maximum size is not increased by more than two pupils above the maximum enrollment specified, and the requesting district has consulted with the specific teacher involved. Such approval, when based on a lack of additional classroom space, shall not be given for any school year commencing July 1, 1977, or thereafter.

56518. An annual report shall be made by each school district or county superintendent of schools to the Department of Education indicating the number of eligible pupils under Section 56515 for whom no such education is provided and the reason therefor.

56519. The governing board of any elementary or unified school district which has an average daily attendance of 900 or more in the elementary schools of the district, or any high school district which has an average daily attendance of 900 or more shall provide for the education in special training schools or classes of mentally retarded pupils residing in the district who come within the provisions of Section 56501 and who are not in attendance upon other special training schools or classes maintained under the provisions of Sections 56500 to 56534, inclusive.

The governing board of any elementary or unified school district which has an average daily attendance of 8,000 or more in the elementary schools of the district, and any unified or high school district which has an average daily attendance of 8,000 or more in the high schools of the district shall provide for the education in special training schools or classes of mentally retarded pupils residing in the district who come within the provisions of Section 56515 and who are not in attendance upon other special training schools or classes maintained under the provisions of Sections 56500 to 56534, inclusive.

With the approval of the county superintendent of schools, the governing board of any elementary or unified school district which

has an average daily attendance of less than 8,000 in the elementary schools of the district, and any unified or high school district which has an average daily attendance of less than 8,000 in the high schools of the district may provide for the education in special training schools or classes of mentally retarded pupils residing in the district who come within the provisions of Section 56515 as may be admitted to such schools or classes.

The governing board of any elementary, unified or high school district, required to provide for the education in special training schools or classes of mentally retarded minors residing in the district who come within the provisions of Section 56515, may, with the approval of the Superintendent of Public Instruction, enter into an agreement with a county superintendent of schools for the latter to provide for the education of such mentally retarded pupils.

The governing boards of elementary, unified, and high school districts may enter into agreements for the education in special training schools or classes of mentally retarded pupils residing in the districts. Parties to such agreements providing such agreements are reported through the county superintendent of schools to the Superintendent of Public Instruction.

56520. The Superintendent of Public Instruction shall adopt regulations prescribing the conditions under which the education of mentally retarded pupils under Sections 56501 and 56515 shall be the responsibility of either the elementary schools or the high schools maintained by school districts, and for determining when such pupils in classes maintained by a school district or a county superintendent of schools shall be designated as of elementary or secondary grade for attendance and state apportionment purposes.

56521. The county superintendent of schools of a county with more than 25,000 pupils in average daily attendance, and in which at least 50 percent of the mentally retarded pupils in the county are enrolled in classes conducted by the county superintendent, shall employ at least one full-time certificated person to coordinate activities involved in the preparation, adoption, revision, use and enforcement of a course of study for mentally retarded pupils in special schools and classes conducted by the county superintendent and by school districts in which the county course of study is required to be used. The minimum professional requirement for employment in such position shall be the holding of a regular teaching credential with authorization to teach the mentally retarded.

A county board of education of a county with 25,000 or less pupils in average daily attendance or the governing board of any school district with an average daily attendance of more than 8,000 may cooperate with a county superintendent of schools of 25,000 or more pupils in average daily attendance in the development of a course of study for mentally retarded pupils educated by them.

56522. The governing board of a unified or high school district with an average daily attendance of 900 or more shall provide a four-year secondary school program for each mentally retarded

pupil residing in the district who comes within the provisions of Section 56501 and for whom the district is required to provide an education in special training schools or classes pursuant to Section 56519.

56523. The governing board of any high school district which has an average daily attendance of less than 900 may establish and maintain special training schools or classes for the education of such mentally retarded pupils as may be admitted to such schools or classes by the governing board of the district.

56524. The Department of Education shall establish minimum standards for all such special schools and classes and shall enforce these standards throughout the state.

56525. The governing board of each unified or high school district which is required or authorized to maintain special training schools for mentally retarded pupils who come within the provisions of Section 56501 shall issue a diploma or other certificate of graduation to each person who has met the minimum standards of the State Board of Education for such special schools and such diploma or certificate of graduation shall not contain any notation or other evidence which indicates that the graduate is a mentally retarded person.

56526. The Director of Education shall employ such persons as are necessary to carry out the purposes of Sections 56500 to 56543, inclusive, and of Sections 1880 to 1889, inclusive, and Section 1856.

56527. Before any child is placed in a school or class for mentally retarded children, he shall be given a careful individual examination by a competent psychologist holding a credential for that purpose issued by the State Board of Education or Commission for Teacher Preparation and Licensing, or by a person serving under the supervision of such a psychologist and holding a credential for that purpose issued by the State Board of Education or commission, and a consultation with his parents or guardian held. A psychiatrist may be consulted in any specific case when the governing board of the district deems it necessary.

56528. No examination as specified in Sections 56500 to 56543, inclusive, shall be given if the parent or guardian objects on the ground that such examination is contrary to the religious beliefs of such parent or guardian.

56529. The governing board of any school district otherwise required or authorized to maintain special training schools and classes under Sections 56519 and 56523 for mentally retarded pupils may provide for the education of such pupils in, and for the transportation of such pupils to, special training schools or classes maintained by another school district under Sections 56500 to 56543, inclusive, or by a county superintendent of schools under Sections 1880 to 1889, inclusive, and Section 1856, subject to such terms and conditions as may be agreed upon.

56530. In lieu of entering into an agreement for the transportation of mentally retarded pupils by the school district or

county superintendent of schools, in the special training schools and classes of which the education of such pupils is provided under Section 56529 or 1884, the school district or county superintendent of schools of the county required to provide for their education may provide such transportation.

56531. No person shall be employed as a teacher of mentally retarded pupils who does not hold a valid credential for the education of mentally retarded children. Nothing herein shall be deemed to prohibit the employment, as a substitute teacher of each special training class of mentally retarded children for not more than 20 schooldays in any school year, of a person holding some other valid credential authorizing substitute teaching.

56532. Notwithstanding Section 56531, any person may be employed to teach mentally retarded pupils in a sheltered workshop, occupational training program, or any other vocational education program if that person holds a designated subjects teaching credential in a subject related to the program in which the person is employed.

56533. Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for mentally retarded pupils. Upon approval by the Department of Education the governing board of any school district may separately, or in cooperation with the governing board or boards of one or more other school districts, or in cooperation with the Bureau of Vocational Rehabilitation of the Department of Education, employ a special coordinator, who shall make a study of employment and occupational opportunities and shall assist in the coordination of the education of the mentally retarded pupils with the commercial and industrial pursuits of the community, so as to prepare the pupils for employment.

56534. The Superintendent of Public Instruction shall prescribe the procedures for qualifying for and shall determine the amount of the allowances for special regular day classes and for authorized instruction in other than special regular day classes of mentally retarded pupils.

56536. Whenever any school district maintains special training schools or classes for the education of mentally retarded pupils who come within the provisions of Section 56515, or special schools, classes or integrated programs where a qualified special teacher is provided for the education of physically handicapped pupils who come within the provisions of Sections 56700 and 56701, the governing board of the school district may apply to the Superintendent of Public Instruction for an apportionment pursuant to Sections 56536 to 56541, inclusive.

56537. The application shall be made prior to September 1st of each school year in the form and manner prescribed by the Superintendent of Public Instruction and shall include an estimate of the average daily attendance that will be credited to such schools, classes or integrated programs during the school year for which an advance apportionment is requested. Such estimate shall be based

upon the number of pupils residing in the district or in an adjacent district that come within the provisions of Sections 56700, 56701, and 56515 and who will attend such schools, classes or integrated programs, and shall be subject to the approval of the Superintendent of Public Instruction.

56538. Not later than 30 days after such application, the Superintendent of Public Instruction, if he approves, shall apportion to each applicant school district from the State General Fund, as an advance against future apportionments from the State School Fund to such district, an amount equal to the maximum amount allowable for each type of program included in the request per unit of average daily attendance to school districts for the excess expense of educating mentally retarded pupils who come within the provisions of Section 56515, and physically handicapped pupils who come within the provisions of Sections 56700 and 56701 multiplied by eight and the product thereof multiplied by the number of special classes or integrated programs maintained by the applicant school district for such pupils.

56539. The Superintendent of Public Instruction shall furnish an abstract of all apportionments made to school districts of any county under Sections 56536 to 56541, inclusive, to the State Controller, the Department of Finance and to the county auditor, county treasurer and county superintendent of schools of the county and shall certify such apportionments to the State Controller who shall thereupon draw his warrants on the State General Fund in favor of the county treasurer of each county for the amounts apportioned to the districts of the county.

56540. All moneys received by the treasurer of a county under Sections 56536 to 56541, inclusive, shall be credited by the treasurer to the general fund of the school district of the county exactly as apportioned by the Superintendent of Public Instruction.

56541. During the next two fiscal years after the fiscal year in which such apportionment is advanced to a school district under Sections 56536 to 56541, inclusive, the State Controller shall deduct from apportionments made to each such school district from the State School Fund an amount equal to the amount apportioned to such district under Sections 56536 to 56541, inclusive, and pay the same into the State General Fund.

56542. Every mentally retarded, physically handicapped, or multihandicapped pupil, as defined in Section 56030, is entitled to training or an education free of charge in the public schools of this state.

#### CHAPTER 4. EDUCATIONALLY HANDICAPPED PUPILS

##### Article 1. General Provisions

56600. As used in this chapter, "educationally handicapped pupils" are pupils under the age of 21 years who, by reason of marked

learning or behavior disorders, or both, cannot benefit from the regular educational program, and who, as a result thereof, require the special education programs authorized by this chapter. Such learning or behavior disorders shall be associated with a neurological handicap or emotional disturbance and shall not be attributable to mental retardation.

56601. (a) The education of educationally handicapped pupils who are diagnosed as being autistic shall be provided all eligible pupils in the manner set forth in this chapter.

(b) The governing board of any elementary or unified school district which has an average daily attendance of 8,000 or more in the elementary schools of the district, or any high school district which has an average daily attendance of 8,000 or more shall provide for the education, in special education classes or programs, of autistic pupils residing in the district who are not in attendance upon other special education classes or programs.

(c) The county superintendent of schools shall establish and maintain special education classes or programs for autistic pupils who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 8,001 in the elementary schools of the district, or who reside in the county and in a high school district which has an average daily attendance of less than 8,001. The classes and programs shall be established at centrally located places, and the county superintendent of schools shall provide transportation to the pupils attending them.

(d) The State Board of Education shall adopt rules and regulations which shall prescribe standards for special education programs for autistic pupils. Such rules and regulations shall ensure that no county has more than four autistic pupils enrolled in special education classes or program for autistic pupils per 10,000 average daily attendance. The Superintendent of Public Instruction may waive the number of autistic pupils allowed to be served within each county if he determines that such waiver is necessary to meet the exceptional needs of autistic pupils.

56602. The governing board of any school district or a county superintendent of schools with the approval of the county board of education, maintaining schools in juvenile halls or juvenile homes, ranches, or camps as authorized by the Welfare and Institutions Code, may provide for any one or more of the special educational programs for educationally handicapped pupils authorized in this section. A county superintendent of schools may enter into an agreement pursuant to Section 56608 with the governing board of a school district having less than 901 average daily attendance in the elementary schools or less than 901 in the high schools of the district to provide any one or more of such special educational programs for the district, or the county superintendent of schools may enter into an agreement pursuant to Section 56608 with the governing board of a school district having an average daily attendance of 901 or more in the elementary schools of the district or 901 or more in the high

schools of the district to provide only those special educational programs for the district which are set forth in subdivision (a), (c), or (d), or any combination thereof. Whenever a special educational program for educationally handicapped pupils set forth in subdivision (a) or (d) of this section is provided by a county superintendent of schools for a district with an average daily attendance of 901 or more in the elementary schools of the district or 901 or more in the high schools of the district, pursuant to an agreement entered into pursuant to Section 56608, the foundation program prescribed in Section 41704 for an elementary district with an average daily attendance of 901 or more shall apply to educationally handicapped pupils of the elementary schools of the district who are in such a special education program and the foundation program prescribed in Section 41712 shall apply to educationally handicapped pupils of the high schools of the district who are in such a special educational program.

Such special educational programs shall be provided in accordance with standards for each approved by the State Board of Education. Such standards shall emphasize fundamental school subjects with the aim of returning the pupils to the regular school program at the earliest possible date consistent with the interest of the pupil.

The special educational programs for educationally handicapped pupils are:

(a) Special day classes (elementary and secondary). Under this program, educationally handicapped pupils unable to function in a regular class are assigned to a special day class. The special day class shall be maintained for not less than the minimum schoolday. In this program, fundamental school subjects shall be emphasized as prescribed by the State Board of Education.

(b) Learning disability groups (elementary and secondary). In this program, the pupil remains in his regular class but is scheduled for individual or small group instruction given by a special teacher. Whenever one to four educationally handicapped pupils are instructed at the same time by the same teacher in a learning disability group conducted by a school district or county superintendent of schools, the total attendance credited for such pupils shall equal one unit of attendance for each 60 minutes of instruction.

(c) Specialized consultation to teachers, counselors, and supervisors (elementary and secondary). Under this program, specialized consultation is provided teachers, counselors, and supervisors relative to the learning disabilities of individual pupils and special education services required by such pupils.

(d) Home and hospital instruction (elementary and secondary). Under this program, a pupil who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level at home or in a hospital.

(e) Regular class instruction. Under this program, whenever the number of educationally handicapped pupils is less than six in each

of one or more schools of a district or schools served by a county superintendent and the distance between any school also having educationally handicapped pupils is excessive, prohibiting the reasonable transportation of pupils, such pupils may be instructed in the regular classes of the district or county with prior approval of the Superintendent of Public Instruction, providing an instructional aide is employed in each such regular class for the regular schoolday, and that supervision of the instructional program for educationally handicapped pupils is provided by a credentialed person having expertise and experience in teaching the educationally handicapped. School districts providing regular class instruction for educationally handicapped pupils under this subdivision shall be qualified for the individual apportionment under subdivision (i) of Section 41888.

56603. The maximum size for the special educational programs for educationally handicapped pupils defined in Sections 56601 and 56602 shall be as follows:

(a) For special day classes the maximum enrollment shall be 12 pupils per class.

If after the beginning of the school year it is determined that classes are at maximum size, that additional pupils will be without schooling unless additional classes are established, and that additional qualified teachers are not available for employment, a school district or a county superintendent of schools may, on forms provided for this purpose by the Department of Education, request permission of the Superintendent of Public Instruction to exceed the maximum class size for all or a part of the remainder of the school year. The Superintendent of Public Instruction may approve such request for all or a part of the remainder of the school year, provided the maximum size is not increased by more than two pupils above the maximum enrollment specified.

(b) For classes for autistic pupils, as defined by the Superintendent of Public Instruction, conducted by a school district or county superintendent of schools, the maximum class size shall be six pupils. The maximum class size prescribed herein may be exceeded upon a determination by the Superintendent of Public Instruction that to do so is in the best interests of the pupils and of the school district or county superintendent of schools maintaining such classes.

(c) For learning disability groups the maximum enrollment shall be 32; however, participation in any given learning disability group shall be for at least 30 minutes and shall not exceed eight pupils at any one time.

The instruction provided by a full-time teacher, whether offered by a single teacher or two or more part-time teachers, shall result in not more than eight units of average daily attendance being credited as the result of such instruction.

56604. The governing board of each school district may provide for instruction of educationally handicapped pupils who reside in all regularly established nonprofit, tax-exempt, licensed children's

institutions within the district. Under such a program, a pupil who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level in the institution, or a pupil who resides in the institution and who is able to function in a school setting receives instruction at the appropriate grade level in the public school facilities.

The governing board may contract with the county superintendent of schools for the provision of such programs.

56605. A school district maintaining special educational programs for educationally handicapped pupils shall not enroll at any given time more than 2 percent of total district enrollment in such programs except as permitted by special authorization of the Superintendent of Public Instruction. As used in this section, total district enrollment means the average number of pupils, exclusive of pupils for whom a tuition payment is charged pursuant to Chapter 11 (commencing with Section 42900) of Part 24 of Division 3 of this title, enrolled at the end of the first school month and the sixth school month of the school year.

The superintendent shall report to each regular session of the Legislature (1) the school districts, and county superintendents of schools permitted to exceed the 2 percent during the preceding school year, (2) the number of additional pupils involved, and (3) the reasons existing that resulted in granting the permission requested.

A county superintendent of schools maintaining schools in juvenile halls or juvenile homes, ranches, or camps as authorized by the Welfare and Institutions Code shall not enroll at any given time more than 2 percent of the juvenile population thereof in programs for educationally handicapped pupils except as permitted by the Superintendent of Public Instruction.

The 2-percent limitation prescribed by this section does not include pupils participating in a program for educationally handicapped pupils pursuant to Section 56604.

56606. In any fiscal year, extension of an existing program by a school district or county superintendent of schools which exceeds 120 percent of the enrollment at the end of the sixth school month of the prior year shall receive the prior approval of the Superintendent of Public Instruction before any allowance or apportionment is made therefor for the purposes of this article.

56607. Approval of the Superintendent of Public Instruction pursuant to Section 56606 shall be based on but not limited to the following:

(a) Actual demand for the program as demonstrated by the recommendations for placement by the local admission committee authorized in Section 56610.

(b) District experience in the operation of programs for educationally handicapped pupils.

(c) The demonstrated ability of the district to return educationally handicapped pupils, who can participate effectively, to the regular school program.

56608. The governing board of a school district which has an average daily attendance of less than 901 in the elementary schools of the district or less than 901 in the high schools of the district may enter into agreement with the county superintendent of schools to provide special educational programs for educationally handicapped pupils. The governing board of a school district may enter into agreements with the governing boards of other school districts for the education of educationally handicapped pupils. The district of residence having pupils receiving special education under the provisions of this section shall pay all current expenses entailed in providing such special education which are over and above all state apportionments made to the county superintendent or school district providing the program.

56609. Before initiating any program for educationally handicapped pupils the governing board of a school district or county superintendent of schools shall apply to the Superintendent of Public Instruction for approval to do so and shall furnish such relevant information with respect to such proposed special education programs as may be required by the Superintendent of Public Instruction. Such application and such information shall be on forms provided by the Superintendent of Public Instruction.

56610. (a) Admission of minors to programs for the educationally handicapped established under the provisions of this chapter shall be made only on the basis of an individual evaluation according to standards established by the State Board of Education and upon individual recommendation of an admission committee which shall include an administrator in charge of special education programs in the school district or county or administrator designated by the school district or county superintendent of schools, an experienced special education teacher, a school nurse, and a school psychologist who has examined the child under consideration for eligibility and placement. The admission committee shall use such health reports as are needed to properly evaluate the child. The admission committee shall have the services or presence of other pupil personnel workers, educational specialists, school nurses, social workers, optometrists, or physicians as the committee may require and request.

The recommendation shall include a statement, that in the professional judgment of the members of the admission committee the minor is recommended for placement in a program for educationally handicapped minors to ameliorate a marked learning disability or behavior disorder, or both, associated with a neurological handicap or emotional disturbance, or both. Any member of the admission committee dissenting from the final committee recommendation shall attach to the final recommendation a statement of reasons for such objection and alternative recommendations.

(b) The administrative head of a school district or office of the county superintendent of schools may make an interim placement of a pupil in a program for the educationally handicapped for a period

not to exceed 90 days whenever a pupil transfers into the school district from another school district in which his last enrollment was in a program for educationally handicapped minors, such an interim placement may be made without the complete documentation specified in subdivision (a). Before the expiration of the 90-day period such interim placement shall be reviewed by the admission committee and a final recommendation shall be made by the admission committee in accord with the requirements of this chapter. The committee may utilize information, records, and reports from the admission committee proceedings of the school district or county program from which the pupil transferred.

56611. The admission committee shall annually (1) review the appropriateness of the placement of pupils in special educational programs under the provisions of this chapter and (2) submit recommendations as to the return of such pupils to the regular school program, continuance in the program for the educationally handicapped, transfer to other special educational programs, or referral to other agencies.

56612. Whenever any pupil is being evaluated for placement in a program for the educationally handicapped by an admission committee pursuant to Section 56610 or a review and recommendation procedure is being conducted by an admission committee pursuant to Section 56611, the parent or guardian of the pupil shall have the right to be present at all meetings of the admission committee concerning only that pupil, the right to a 48-hour prior written notice of such meetings, and the right to have a physician, optometrist, psychologist, social worker, or teacher, whether certificated or not, represent the pupil and present additional material, if any, to assist the admission committee in its determination with respect to the pupil.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the admission committee. The representative so selected may be an employee of the school district.

56613. No pupil shall be required to participate in a program for educationally handicapped pupils unless the admission committee or a member of the admission committee appointed by such committee has personally consulted with the parent or guardian of the pupil regarding the learning disorders of the pupil and the objectives of the program, and the parent or guardian has subsequent to such counseling and prior to participation in a special educational program, filed written consent to such participation with the governing board of the school district or with the office of the county superintendent of schools.

56614. The State Board of Education shall adopt rules and regulations which shall prescribe standards for the individual identification and evaluation of educationally handicapped pupils and their admission to special education programs for educationally handicapped pupils. In arriving at such standards the State Board of

Education shall receive assistance from an advisory committee consisting of one member from the Department of Education and one member from the State Department of Health, such members to be appointed by the heads of the respective departments named. In addition, such advisory committee may consist of such additional members as are appointed by the State Board of Education.

56615. The State Board of Education shall adopt rules and regulations which shall prescribe standards for special educational programs for educationally handicapped pupils which shall include, but need not be limited to, individual evaluation of pupils and curriculum content for each type of program authorized pursuant to this chapter, and provisions for periodic examination, reevaluation, or transfer of educationally handicapped pupils participating in special educational programs maintained for each type of program authorized under the provisions of this chapter.

The Commission for Teacher Preparation and Licensing shall adopt rules and regulations which prescribe standards for teacher qualifications for each type of program authorized pursuant to this chapter.

56616. The testing or screening of all pupils in a particular grade, school, or district shall not be a condition of eligibility for apportionment under the provisions of Article 11 (commencing with Section 41880) of Chapter 5 of Part 24 of Division 3 of this title. In the event the governing board of a school district elects to do such testing or screening, only such tests or screening procedures as are approved by the State Board of Education for this purpose shall be used. School districts intending to do such testing or screening shall give written notice to the parents or guardians of the pupils concerned at least 15 days prior to such testing or screening and shall provide copies of any written instruments to be used for such testing or screening in the office of the principal of the school the pupils attend for examination by such parents or guardians. No pupil shall be required to participate in such screening or testing unless the parent or guardian files prior written consent to such participation with the governing board of such school district.

56617. The Director of Education shall employ such persons as are necessary for the coordination and supervision of services for educationally handicapped pupils.

56618. The Superintendent of Public Instruction shall:

(a) Prescribe the form and manner of notification of intention to initiate a program.

(b) Prescribe the procedures for qualifying for allowances for special day classes, and for authorized instruction in other than special day classes of educationally handicapped pupils.

56619. This chapter may be cited as "The Waldie Act."

Article 2. Educationally Handicapped Minors for Whom No  
Public Facilities Are Available

56630. With the approval of the Superintendent of Public Instruction, any school district having an educationally handicapped pupil as defined by this chapter for whom, because of the severity of the handicap, special education facilities and services are not available and cannot be reasonably provided under the provisions of this chapter, and for whom the State of California has no appropriate special education facilities and services, may, in lieu of establishing and maintaining the needed special education facilities and services at an unreasonable cost to the district, pay to the parent or guardian of such pupil toward the tuition for such pupil, enrolled in a public or private nonsectarian school within or outside of California offering the special education facilities and services made necessary by the pupil's handicap, an amount not to exceed the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question, the maximum amount allowable per unit of average daily attendance for excess current expenses under Sections 41863 and 41882, and the amount per unit of average daily attendance provided from revenue derived from district taxation for support of the schools of the district. As used in this article "tuition" includes the cost to the parent or guardian of transporting a pupil enrolled in a public or private nonsectarian school under this section to and from school.

56631. A school district having an educationally handicapped pupil receiving the benefits of special education facilities and services under the provisions of Section 56630 shall report the attendance of such pupil and submit any claim the district may have for the regular and special purpose apportionment to be used in payment to the parent or guardian of such pupil toward any tuition arising out of such attendance through the county superintendent of schools to the Superintendent of Public Instruction. The aforementioned report and claim shall be submitted at the time and in the manner prescribed by the Superintendent of Public Instruction. The county superintendent of schools shall verify the attendance reported and claim submitted in the manner prescribed by the Superintendent of Public Instruction.

56632. Upon verification of the attendance reported and the claim submitted, the Superintendent of Public Instruction shall apportion to the school district submitting the report and the claim of the parent or guardian of such pupil for the tuition in question an amount sufficient to satisfy the claim but not in excess of the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question and the maximum amount allowable per unit of average daily attendance for reimbursement of excess current expenses under Sections 41863 and 41882. The apportionments shall be made from the funds reserved under the provisions of subdivision (c) of Section 41301 for each fiscal

year immediately following the fiscal year in which the attendance occurs.

## CHAPTER 5. PHYSICALLY HANDICAPPED PUPILS

### Article 1. General Provisions

56700. Subject to the provisions of this article and Section 1850, the governing board of any school district may make such special provisions as in its judgment may be necessary for the education of physically handicapped pupils. "Physically handicapped pupil," as used in this article means a physically defective or handicapped person under the age of 21 years who is in need of education.

56701. Any pupil who, by reason of a physical impairment, cannot receive the full benefit of ordinary education facilities, shall be considered a physically handicapped individual for the purposes of this chapter. Such pupils include the following, as defined by the State Board of Education:

- (a) The deaf or hard of hearing.
- (b) The blind or partially seeing.
- (c) Orthopedic or health impaired.
- (d) The aphasic.
- (e) The speech handicapped.
- (f) Other pupils with physical illnesses or physical conditions which make attendance in regular day classes impossible or inadvisable.
- (g) Pupils with physical impairments so severe as to require instruction in remedial physical education.
- (h) Multihandicapped.

56702. Programs for physically handicapped pupils are:

(a) Special day classes (elementary and secondary). A class established for a group of pupils with a similar handicapping condition defined in Section 56701. The special day class shall be maintained for at least the minimum schoolday. The class shall be taught by a full-time teacher whose responsibility is to teach pupils enrolled in the class for the schoolday established by the governing board for regular classes at the grade level of the pupils in the special day class who are at the highest grade level in the class.

(b) Regular day class program. A program of assistance to physically handicapped pupils enrolled in regular day classes who require special services and equipment beyond the services provided to pupils not determined to be physically handicapped to benefit fully from the regular classroom instruction. Such services may include, but are not limited to, supplemental teaching, transportation, teaching aides and specialized equipment.

(c) Integrated instructional programs. A program in which physically handicapped pupils who receive their education in regular classrooms from regular teachers, but receive, in addition, supplementary teaching services of a full-time special teacher

credentialed to teach physically handicapped pupils of the type enrolled in the program. Such special teacher shall serve within the employing or other district being served, such physically handicapped pupils for the full schoolday established by the governing board for regular pupils in the public school or public schools enrolling such physically handicapped pupils.

(d) Remedial instruction. A remedial class providing physically handicapped pupils who are excused in small numbers, for not to exceed one class period or one hour from their regular or special program, remedial instruction or remedial physical education.

(e) Individual instruction. A program of individual instruction to physically handicapped pupils in hospitals, sanitariums, preventoriums, in the home, or under other circumstances as defined by the State Board of Education.

(f) Special speech instruction through speech aides. In counties having a total average daily attendance of less than 30,000 or defined as class five through class eight counties, inclusive, by Section 1205, a program of remediation for speech-handicapped pupils may be conducted through the use of specially trained instructional aides in structured programs of language and articulation under the direction and guidance of a credentialed speech therapist. Reimbursement for such speech instruction shall be as provided by subdivision (j) of Section 41888. No more than two speech aides may be supervised by one speech therapist. The therapist shall be responsible for establishing goals and objectives and evaluating the aide's performance.

56703. The maximum size for any special day class authorized by subdivision (a) of Section 56702 is as follows:

Types of pupils in class	Ages 3	Ages 9
	through 8 years	through 20 years
Deaf .....	6	8
Severely hard of hearing.....	8	10
Combination of deaf and severely hard of hearing.....	6	8
Blind.....	8	10
Partially seeing.....	10	12
Combination of blind and partially seeing.....	8	10
Orthopedic or other health impaired .....	12	16
Aphasic.....	6	8
Other physically handicapped .....	—	20
Deaf-blind multihandicapped .....	3	5
Other multihandicapped.....	6	8

The State Board of Education may waive the maximum class size standards prescribed by this section whenever it approves a project submitted by a school district or county superintendent of schools to conduct experimental studies to determine the proper maximum

class size standards.

If, after the beginning of the school year, it is determined that classes for a given category of physically handicapped pupils are at maximum size, that additional such pupils will be without schooling unless additional classes are established, and that additional qualified teachers are not available for employment, or additional classroom space is not available, a school district or a county superintendent of schools may request permission of the Superintendent of Public Instruction to exceed the maximum class size for the remainder of the school year, using the form provided for this purpose by the Department of Education. The superintendent may approve such request for the remainder of the school year, providing the maximum size is not increased by more than two pupils of that provided herein, and the requesting district has consulted with the specific teacher involved. Such approval, when based on a lack of additional classroom space, shall not be given for any school year commencing July 1, 1977, or thereafter.

56704. The Superintendent of Public Instruction shall promote and direct special instruction in the public schools for physically handicapped pupils. He may employ such professional and other personnel as are necessary for this purpose, and may perform such other duties as are necessary to give full effect to this article.

56705. The Director of Education shall employ such persons as are necessary for the coordination and supervision of services of multihandicapped pupils.

56706. Whenever any pupil is being evaluated for placement in a program conducted pursuant to this chapter by an admission committee established by a school district or county superintendent of schools, the parent or guardian of the pupil shall have the right to be present at all meetings of the admission committee concerning only that pupil, the right to a 48-hour prior written notice of such meetings, and may have a physician, optometrist, psychologist, social worker, or teacher, whether certificated or not, represent the pupil and present additional material, if any, to assist the admission committee in its determination with respect to the pupil.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the admission committee. The representative so selected may be an employee of the school district.

56707. The Department of Education may prescribe minimum standards for the special education of physically handicapped pupils. No apportionment of state funds shall be made by the Superintendent of Public Instruction to any school district on account of the instruction of physically handicapped pupils unless the standards prescribed for the instruction are complied with.

56708. Any school district furnishing education to physically handicapped pupils pursuant to this article shall furnish such education to all such handicapped pupils actually living within the district five or more days a week, although their legal residence may

be outside the district.

56709. Subject to the provisions of Section 1850, any school district which does not maintain facilities for the education of physically handicapped pupils shall enter into a contract with a school district in the same county, or a county superintendent of schools maintaining such facilities. If there is no district in the same county or county superintendent of schools maintaining such facilities, the governing board of the school district shall enter into a contract with a school district maintaining such facilities in any other county. If the governing board of the district should determine the same to be more economical and practical, it may enter into a contract with a school district situated in another county, in lieu of entering into a contract with the county superintendent of schools or a school district in the county in which such district is situated.

If any question arises concerning the adequacy of the facilities provided for the education of physically handicapped pupils by the school district in which the child is actually living, the parent or guardian of such child may appeal to the county superintendent of schools, and if the county superintendent of schools determines that the facilities offered are inadequate, he shall order the school district in which the child is actually living either to provide the facilities or enter into a contract with a school district maintaining adequate facilities.

Such contract shall provide for the payment of the cost of tuition by the district in which the physically handicapped pupil actually lives and may provide for payment of the cost of the use of the buildings and equipment. The cost of tuition shall not be greater than the difference between current expenditures per unit of average daily attendance, including transportation, or the education of a pupil in the particular category of physically handicapped pupils to which the pupil belongs and the apportionment of state funds for the education of physically handicapped pupils in that category.

The amount shall be determined not later than the last Monday in December and the last Monday in May of each year by the county superintendent of schools of the county in which the child attends schools and certified to the superintendent of schools having jurisdiction over the schools of the school district in which the child actually lives. The amount shall be forthwith paid from any funds of the school district available for that purpose.

56710. The Superintendent of Public Instruction shall adopt regulations (a) to prescribe the conditions under which the education of physically handicapped pupils shall be the responsibility of either the elementary schools or the high schools maintained by school districts, and (b) to determine when such pupils who are in classes maintained by a school district, or a county superintendent of schools, shall be designated in elementary or secondary grades for attendance and state apportionment purposes.

56711. Subject to the provisions of Section 1850 the governing board of a school district may provide for the transportation of pupils

assigned to special schools or classes for physically handicapped pupils, and shall provide transportation for those pupils whose physical handicaps prevent their walking to school.

56712. Subject to the provisions of Section 1850 the governing board of the school district in which any physically handicapped pupil is actually living, although the residence of his parents or guardian is outside the district, shall provide for the transportation of such pupil to the school at which education is furnished, if his handicap prevents his walking to school or if the distance is greater than one mile, regardless of whether such education is furnished within or without the district.

56713. Physically handicapped pupils may be admitted at the age of three years, or upon the prior approval of the Superintendent of Public Instruction, may be admitted at the age of 18 months, to special schools or classes established for such pupils.

When the school district of residence of a pupil between the ages of three and six years who is deaf, blind, orthopedic or other health impaired, aphasic, or multihandicapped does not maintain a special class in the category of the pupil's handicapping condition, but such a special class or special school is maintained by the county superintendent of schools or by another school district, such a pupil shall be admitted to a special school or special class so maintained when all of the following circumstances exist:

(a) The pupil is eligible for enrollment under the regulations of the county superintendent or the governing body of the district maintaining such special class, as applicable.

(b) The governing board of the district or the county superintendent maintaining the special day class is willing to admit the pupil.

(c) The parents of the pupil file a written request that the pupil be so admitted and a physician's statement that the pupil is physically able to attend such a class. Such request and statement shall be filed with the district superintendent of schools when the class is maintained by a school district or with the county superintendent of schools when the class is maintained by the latter.

If a pupil is admitted pursuant to this section, the district of the pupil's residence shall enter into a contract as provided by Section 56709, and the provisions of Section 56709 with respect to payment of cost of tuition and the cost of buildings and equipment shall apply.

56714. Necessary care may be provided during school hours for pupils whose attendance has been irregular because of physical handicaps, and such employees as may be needed may be employed to provide the care.

56715. Subject to the provisions of Section 1850 the governing board of a school district may establish regulations determining who can profit by and who shall receive the special instruction provided by this article. The regulations shall be subject to such standards as may be prescribed by the Department of Education.

56716. Subject to the provisions of Section 1850 physically

handicapped pupils may be instructed in special schools or special classes, in hospitals, sanatoriums, or preventoriums, in the home through the employment of home instructors, by cooperative arrangement with the Department of Rehabilitation, or by any other means approved by the Department of Education.

Pupils with speech disorders or defects may be admitted at school for individual instruction, or small group instruction of four pupils or less, for the purpose of remedying such speech disorders or defects. With the prior approval of the Superintendent of Public Instruction, such pupils may be admitted at the age of 18 months for such instruction.

Pupils who are deaf or hard of hearing, as determined by the State Board of Education, and between the ages of three years and six years may be admitted at school for individual instruction or be instructed in the home through the employment of a home instructor, provided there are fewer than five such educable pupils in the community making the establishment of a special day class impracticable, or the establishment of a special day class for such pupils is impracticable because there are fewer than five such pupils in the community within reasonable travel distance of a school suitable for the establishment of such a special day class, and provided, further, that such instruction is afforded by a teacher or home instructor possessing full qualifications for the credential to teach deaf pupils as prescribed by the regulations of the State Board of Education. With the prior approval of the Superintendent of Public Instruction such pupils may be admitted at the age of 18 months for such instruction.

56717. Pupils between the ages of 3 and 21 and who are multihandicapped, as determined by the State Board of Education, may be enrolled in special day classes for the multihandicapped conducted by a school district or county superintendent of schools. Special day classes for multihandicapped pupils shall be approved in advance by the Superintendent of Public Instruction.

The Superintendent of Public Instruction shall approve not more than 100 classes during the 1970-1971 fiscal year and not more than 50 additional classes each fiscal year thereafter, not to exceed a total of 400 classes.

The Superintendent of Public Instruction shall report annually to the Legislature the progress being made in the education of multihandicapped pupils including but not limited to, the number of authorized classes, the numbers of pupils enrolled, the nature of handicapping conditions of pupils enrolled in classes, a description of the instruction being provided, objectives of the program, achievement outcomes, and recommendations for further program development.

56718. Subject to the provisions of Section 1850 special classes or individual instruction provided for pretuberculous, tuberculous, convalescent, or other physically handicapped pupils in hospitals, sanatoriums, and preventoriums, may be maintained in the

institutions within or without the school district, and the attendance of pupils in the institutions shall be credited to the district providing the instruction. The minimum schoolday for such classes is 180 minutes.

56719. No pupil shall be required to take advantage of the special provisions for the education of physically handicapped pupils if the parent or guardian of the pupil files a statement with the governing board of the school district showing that the pupil is receiving adequate educational advantages.

56720. Subject to the provisions of Section 1850 a pupil with cerebral palsy may attend a special school or class maintained by any school district for pupils with cerebral palsy. The governing board of the district of residence shall pay to the district of attendance at the close of each school year the total current expenditures of the district of attendance, for the education of such pupil during such school year, less all apportionments of state and federal funds made on account of the attendance of such pupils. The governing board of the district of residence may agree to reimburse the district of attendance for use of buildings and equipment. If the district of residence has insufficient funds to make such payment, the county superintendent of schools having jurisdiction over the district of residence shall apportion to the district from the county school service fund such sum as may be necessary to permit the district to meet its obligation under this section.

56721. The Superintendent of Public Instruction shall prescribe the procedures for qualifying for, and shall determine the amount of the allowances for special regular day classes and for the authorized instruction in other than special regular day classes of physically handicapped pupils.

56722. The Department of Education may appoint counselors to assist blind pupils attending public schools in the state to solve problems in connection with their school program. The counselors may visit blind pupils attending any public school in the state, in their homes to advise them and discuss with their parents the solution of problems pertaining to their school attendance. The counselors shall be available to teachers and administrators in the public schools where blind pupils are in attendance to advise and counsel them regarding the best methods and procedures for teaching blind children. The counselors shall be persons who have had special training for such work, and shall be thoroughly familiar with problems peculiar to the blind and their public school education. Blindness shall not be grounds to disqualify persons for these positions.

56723. Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for physically handicapped pupils. Upon approval by the Department of Education the governing board of any school district may separately, or in cooperation with the governing board or boards of one or more other school districts, or in cooperation with the

Department of Rehabilitation, employ a special coordinator, who shall make a study of employment and occupational opportunities and shall assist in the coordination of the education of the physically handicapped pupils with the commercial and industrial pursuits of the community, so as to prepare the pupils for employment.

56724. The Department of Employment Development shall, through the State Employment Development Service, cooperate with local school officials and the State Department of Education in the placement of physically handicapped individuals.

56725. No person shall be employed to teach blind, partially seeing, deaf, hard-of-hearing, speech-handicapped, or orthopedically handicapped pupils in a special day or remedial class for such pupils who does not hold a valid credential authorizing such teaching or a designated subject credential in the area of vocational education. Nothing herein shall be deemed to prohibit the employment, as a substitute teacher of each such special day class for not more than 20 schooldays in any school year, of a person holding some other valid credential authorizing substitute teaching. Upon application by the school district or county superintendent of schools the Superintendent of Public Instruction may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which submitted.

56726. On and after September 1, 1975, no person shall be employed to teach deaf, severely hard-of-hearing, blind, partially seeing, aphasic, or speech-handicapped pupils in the home, hospital, or licensed children's institution who does not hold a valid credential authorizing such teaching.

Nothing in this section shall be deemed to prohibit the employment of a person holding some other valid credential authorizing substitute teaching for not more than 20 schooldays in a given school year to serve as a substitute for the appropriately credentialed teacher absent because of illness or other reason acceptable to the employing school district or county superintendent of schools.

Upon application by the school district or county superintendent of schools the Superintendent of Public Instruction may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which submitted.

56727. On and after September 1, 1975, no person shall be employed to teach multihandicapped pupils, as defined in Section 56701, who does not hold a valid credential to teach exceptional children.

56728. Notwithstanding Section 56725, 56726, or 56727, any person may be employed to teach physically handicapped pupils in a sheltered workshop, occupational training program, or any other vocational education program if that person holds a designated subjects teaching credential in a subject related to the program in which the person is employed.

56729. The Department of Education may cooperate with the

American Printing House for the Blind in the provision and distribution of Braille books and other materials and equipment available from the American Printing House for the Blind for the use of blind pupils in the public schools of California under the provisions of an act entitled: "An act to amend the act to promote the education of the blind, approved March 3, 1879, as amended, so as to authorize wider distribution of books and other special instructional material for the blind, to increase the appropriations authorized for this purpose, and for other purposes," approved August 2, 1956 (Public Law 922, 84th Congress, 2d Session).

## Article 2. Schools and Classes in County Institutions

56750. Whenever a school district maintains a school or classes at a tuberculosis or polio ward, hospital or sanatorium established and maintained by a county or group of counties, any person who has been admitted to such ward, hospital or sanatorium is, if otherwise qualified, eligible to attend such school or classes but shall be deemed to be, for the purposes of this code, a resident of the school district in which he resided prior to his admission to such tuberculosis or polio ward, hospital or sanatorium.

The minimum schoolday for such classes is 180 minutes. Whenever two or more districts are authorized and operate such schools or classes the governing boards of the districts may jointly employ personnel to administer and conduct the programs.

The school district maintaining the school shall, no later than 30 days following the date of enrollment of a student who resides in another school district under this section, notify the district of residence of the student's enrollment.

56751. The cost for a school year of educating any person who attends such a school or class and who is deemed to be a resident of the district in which he resided prior to his admission to such tuberculosis or polio ward, hospital, or sanatorium shall be paid by the school district of which any such person is a resident to the district maintaining a school or class in which such person is enrolled pursuant to this article.

Pupils in such schools or classes shall be apportioned excess cost apportionments for handicapped pupils as stated elsewhere in this code.

The Superintendent of Public Instruction shall adopt standards and regulations relating to administration, attendance, accounting and counseling in hospital schools and classes.

No interdistrict attendance agreement is required for the attendance described by this section but the provisions of Chapter 5 (commencing with Section 46600) of Part 26 of this division, relating to crediting average daily attendance and tuition, shall apply to such attendance.

56752. Not later than July 15th of each year, the district maintaining such school or classes shall forward its claim to the

district of residence, for the cost of educating persons who are residents of such district during the preceding school year, and the governing board of such district shall upon the receipt thereof pay such claim.

## CHAPTER 6. DEVELOPMENT CENTERS FOR HANDICAPPED PUPILS

### Article 1. General Provisions

56800. The purpose of the Legislature in enacting this chapter is to recognize that each severely mentally retarded or physically handicapped pupil eligible for enrollment in development centers, as defined in this chapter, is entitled to an appropriate program in the public schools of this state. Such centers have successfully demonstrated that there is a need for programs to provide for pupils from an earlier age; that such centers can prevent the breakup of families; and that such centers reduce the need for institutional placement.

It is the further intent of the Legislature that during the period between July 1, 1974, and September 1, 1978, there be an orderly phase-in of pupils identified as being eligible for the program, so that by September 1, 1978, all eligible pupils shall be served.

56801. This chapter shall be known and may be cited as the Alan Short Development Centers for the Handicapped Act of 1974.

56802. The governing body of any school district or a county superintendent of schools with the approval of the county board of education is authorized to establish and maintain, upon the approval of the Superintendent of Public Instruction, one or more development centers for physically handicapped and mentally retarded pupils between 3 years and 21 years of age residing in, and in the custody of persons residing in, the district or county. The governing body or county superintendent shall determine the hours, days, and months during which the development center is to be maintained.

The establishment and maintenance of any development center for physically handicapped and mentally retarded pupils by the county superintendent of schools shall be undertaken subject to the prior approval of the county board of education, upon the application of one or more school districts under his jurisdiction, and such establishment and maintenance shall be upon such terms and conditions as may be provided for in a written contract between the county superintendent of schools and the governing body of any school district.

Pupils who are otherwise eligible for development center placement as determined by the Superintendent of Public Instruction, and who are between 18 months and 3 years of age, may be enrolled in experimental programs conducted by a school district or county superintendent of schools maintaining a development

center. Experimental programs for such pupils shall be approved in advance by the Superintendent of Public Instruction and shall be conducted in accordance with rules and regulations established by the State Board of Education.

This section shall remain in effect only until September 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before September 1, 1978, deletes or extends such date.

56803. As used in this chapter, "parent" includes any person having legal custody of a child, "center" means a development center for handicapped pupils, "governing board of any school district" includes a county board of education, and "school district" includes a county superintendent of schools, unless a different meaning clearly appears from the context.

56804. (a) The governing board or county superintendent shall annually certify to the Superintendent of Public Instruction that each child enrolled in a development center for handicapped pupils has been found to be eligible for such program by the local admissions and evaluation committee pursuant to eligibility requirements established by the State Board of Education.

(b) The governing board or county superintendent of schools maintaining a center shall annually report to the Superintendent of Public Instruction the number of pupils identified as eligible for center programs in the jurisdiction and the number of pupils enrolled in such programs.

56805. The State Board of Education shall establish and the Superintendent of Public Instruction shall enforce reasonable and uniform standards for development centers for handicapped pupils, and shall establish standards for the admission of a child. The board may change the standards whenever it deems it advisable. However, in no case shall the State Board of Education adopt any rule or regulation which precludes enrolling or maintaining of a pupil in a development center on the basis of any means test. Eligibility for enrollment shall be based on the physical and mental handicapping conditions of each pupil.

56806. With the consent of the parent or guardian, each eligible handicapped pupil, between 3 years and 21 years of age residing in the district, shall be enrolled by the district in either a center maintained by the district or a center maintained pursuant to a contract for the district. If a parent or guardian seeks to enroll his child in a center and enrollment is denied, or if a parent or guardian disagrees with the proposed enrollment of a child in a center, provision shall be made for a fair hearing, including prior notice and an opportunity to be heard, on the issue of whether or not the child shall be enrolled.

The State Board of Education shall adopt rules and regulations relating to the conduct of such hearings.

The hearing may be before the board itself or before a panel composed of persons designated by the board and the parent or guardian.

Each governing board shall adopt rules and regulations relating to the conduct of such hearings.

56807. A governing board maintaining a center may accommodate in the center children residing in another district upon such terms and under such conditions as may be agreed upon by the governing boards of both districts. Such terms and conditions shall include the payment of the cost required or authorized to be paid from the district general fund or a special development center tax levied by the operating district. The amount shall be paid from any funds of the contracting school district available for that purpose.

56808. The governing board may permit the use of, and furnish maintenance for, buildings, grounds, and equipment of the district, and may use existing administrative personnel for the purposes of this chapter.

56809. The governing board may enter into agreements with any city, county, or city and county or other public agency for the furnishing to, or use by, the governing board in carrying out the provisions of this chapter, of property, facilities, personnel, supplies, equipment and other necessary items, and such city, county, city and county, or other public agency is authorized to enter into such agreements.

Agreements for the furnishing of property, facilities, supplies, equipment, and other necessary items may be entered into between governing boards and private nonprofit entities.

56810. The Superintendent of Public Instruction shall apportion state funds to the districts or county superintendents of schools in such amounts as are necessary for the operation of such centers, except that in no event shall the amount apportioned exceed the sum obtained by multiplying one dollar and seventy-five cents (\$1.75) and the number of hours of child attendance earned by such center.

56811. Pursuant to Section 45020, Chapter 2 (commencing with Section 14200) of Part 9 of Division 1 of Title 1, Chapter 6 (commencing with Section 42100) to Chapter 8 commencing with Section 42400), inclusive, Article 1 (commencing with Section 42600), and Article 2 (commencing with Section 42610) of Chapter 9 of Part 24 of Division 3 of this title, the governing board of any school district or county superintendent of schools maintaining a center may include in its budget the amount necessary to carry out its program pursuant to this chapter and the board of supervisors shall levy a school district tax or county tax necessary to raise such amount. The tax shall be in addition to any other school district tax or county tax authorized by law to be levied.

Funds derived from such tax may be expended in addition to state funds, and shall not operate to affect the operation of the formula for apportioning state funds provided for in Section 56810.

Any tax funds raised pursuant to this section may be used to purchase land or buildings, to make alterations or additions to existing buildings, and to purchase furniture, apparatus or equipment for a center.

56812. (a) State support, in accordance with the formula specified in Sections 56810 and 56830, shall be provided during the 1975-76 fiscal year for the number of pupils enrolled in centers on the effective date of this section for whom no state support was provided.

(b) The tax rate for the support of a school district or county superintendent of schools is reduced for the 1975-76 fiscal year by the amount sufficient to reduce the local tax revenues of the entity by the amount which the entity will receive pursuant to subdivision (a).

56813. Any school district which has entered into a contract with a county superintendent of schools or with another school district and any county superintendent of schools who has entered into a contract with a school district or another county superintendent of schools for services of a center shall be deemed for the purpose of Section 56811 to be maintaining a center.

56814. In addition to any other payments required by this chapter, where the education of handicapped pupils is provided in development center buildings or facilities owned by the school district or county superintendent of schools, the county or city and county of the pupil's residence shall pay to the school district or county superintendent of schools, for the pupil's use of the buildings and facilities and appurtenant equipment, an amount per unit of average daily attendance of such pupils during the school year prescribed by whichever of the following subdivisions is applicable:

- (a) Thirty-five dollars (\$35) if an elementary school district.
- (b) Fifty-five dollars (\$55) if a high school district.
- (c) Forty-two dollars (\$42) if a unified school district.
- (d) Forty-four dollars (\$44) if a county superintendent of schools.

The moneys so received by the school district shall be deposited to the credit of its bond interest and redemption fund or its building fund. The moneys so received by the county superintendent of schools shall be deposited to the credit of the county school service fund of the county for use in providing school buildings and facilities for the use of the county superintendent of schools in establishing and maintaining development centers.

56815. The governing board shall establish in the county treasury a fund to be known as the "development center for handicapped pupils fund" into which shall be paid all funds received by the district for, or from the operation of, centers established pursuant to this article. The costs incurred in the maintenance and operation of centers shall be paid from the fund.

No other funds of a district derived from the receipts of district taxes, except a district tax levied under Section 56811, or derived from moneys apportioned to the district for the support of the schools thereof, except state moneys expressly appropriated from the General Fund for the support of centers, may be expended for, or in connection with, a center.

56816. Contributions authorized or required by law to be paid by the district to a retirement system on account of services of employees of a center rendered in connection with center services

furnished to persons participating in a work incentive program pursuant to Section 432 of the Social Security Act.

56817. If during any fiscal year there is apportioned to the "development center for handicapped pupils fund" more or less than the amount to which the fund was entitled, the Superintendent of Public Instruction during the next or any succeeding fiscal year shall withhold from, or add to, the apportionment during such next or succeeding year, the amount of such excess or deficiency.

56818. The county superintendent of schools shall establish and maintain development centers for handicapped pupils who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 8,000 in the elementary schools of the districts or in unified or high school districts which have an average daily attendance of less than 8,000 in the high schools of the districts, whenever such districts have not entered into a contract with other counties or districts to provide such programs.

Any elementary or unified school district which has an average daily attendance of more than 8,000 in the elementary schools of the district and any unified or high school district which has an average daily attendance of more than 8,000 in the high schools of the district shall establish and maintain development centers for the handicapped.

The county superintendent of schools may establish development centers for handicapped pupils who reside in any district within the county with the approval of the county board of education and the agreement of the governing board of the school district.

Any elementary or unified school district which has an average daily attendance of less than 8,000 in the elementary schools of the district and any unified or high school district which has an average daily attendance of less than 8,000 in the high schools of the district, with the approval of the county superintendent of schools, may establish and maintain programs for such pupils.

The county superintendent of schools required to provide development centers for handicapped pupils may, with the approval of the Superintendent of Public Instruction, enter into agreements with an elementary, unified or high school district for the latter to provide for the education of such handicapped pupils.

Pupils who are otherwise eligible for development center placement as determined by the Superintendent of Public Instruction, and who are between 18 months and 3 years of age, may be enrolled in experimental programs conducted by a school district or county superintendent of schools maintaining a development center. Experimental programs for such pupils shall be approved in advance by the Superintendent of Public Instruction and shall be conducted in accordance with rules and regulations established by the State Board of Education.

This section shall become operative on September 1, 1978.

56819. The Department of Education is hereby authorized to accept funds from the government of the United States and to

apportion them to the governing board of such school districts as conduct centers which are hereby authorized to accept such funds or funds from any other source for any of the purposes of this chapter and all such funds may be accepted subject to such conditions as will further the purposes of this chapter.

56820. The Superintendent of Public Instruction shall establish standards for the issuance of permits for persons to be employed in centers established under this chapter. Such standards may be changed from time to time, but changes therein shall not affect then valid permits issued to persons.

56821. The governing board shall employ in a center only such persons who hold credentials issued by the State Board of Education or Commission for Teacher Preparation and Licensing or permits issued by the commission. The filing with the county superintendent of schools of a regulation of a governing board or a public health agency requiring a physical examination of persons employed in centers shall be deemed to be the issuance of a valid permit except for persons employed in positions pertaining to the supervision and training of children or supervision of a center program. Each person employed by the governing board of a school district for a position requiring a credential or permit shall, not later than 60 days after the date fixed by the governing board of the district for the commencement of his service, file with the county superintendent of schools a valid credential or permit issued on or before said date, authorizing him to serve in the position for which he was employed, and must, not later than 60 days after the renewal thereof, file the renewed credential or permit in the same manner. A school district or a county superintendent of schools maintaining one or more centers shall designate one person in each center to serve as a supervising head teacher. Such supervising head teacher shall hold a valid credential to teach exceptional children.

56822. Each person employed in a center in a position requiring certification shall be subject to the same rules and regulations and eligible for the same benefits as provided for all teachers within the school district maintaining the center. Other personnel employed by a school district or a county superintendent of schools in a center under the provisions of this chapter shall be deemed for all purposes, including retirement, to be a person employed by the school district in a position not requiring certification qualifications; provided, however, that any person who is a member of the State Teachers' Retirement System because of employment to perform duties which are requisite for membership and who subsequently is employed by a school district or a county superintendent of schools in a center under the provisions of this chapter shall continue to be a member of the State Teachers' Retirement System with respect to his duties as such employee in such a center upon assuming such duties, unless he elects by a writing filed in the office of the State Teachers' Retirement System within 90 days after such entry, not to continue as a member with respect to his new duties. The provisions of this

section shall apply with equal effect to any member who shall have been employed by a school district or county superintendent of schools in a center under the provisions of this chapter prior to the effective date of this section. Continuance of his membership in the State Teachers' Retirement System of any person so employed prior to the effective date of this section, is hereby ratified, validated and confirmed, and for all purposes he shall be considered as having been a member without interruption as far as such employment is concerned, unless such person elects within 90 days after the date upon which notice of such right to elect, is mailed by the State Teachers' Retirement System to the member's latest address on file in the office of said system, not to be a member of the system with respect to the duties which, but for the provisions of this section, otherwise would not be so requisite for membership therein.

56823. The governing board may adopt such reasonable rules and regulations governing the center or centers maintained by it as are not in conflict with the law or the standards and regulations established for centers by the State Board of Education. The rules and regulations adopted by the governing board may include, among others, rules and regulations relating to the admission of children to, and their exclusion from, such center or centers.

56824. No standard, rule or regulation shall require medical examination or immunization for admission to a center of a child whose parent or guardian files a letter with the governing board of the school district stating that such medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the center because of parent or guardian having filed such a letter; provided, however, that whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child may be temporarily excluded from the center until the governing board of the school district is satisfied that any contagious or infectious disease does not exist.

56825. Children regularly enrolled in a center who are absent on account of illness or quarantine shall be considered to be in regular attendance for the number of hours per day for which they are enrolled for the purpose of reporting attendance for state apportionments, whenever the school district certifies that such absence was on account of illness or quarantine and is verified by the district in such manner as the Superintendent of Public Instruction shall require. All attendance shall be recorded and reported in accordance with the requirements of the Superintendent of Public Instruction.

56826. Any center may be discontinued at any time at the discretion of the governing board of the district upon the giving of the notice herein prescribed.

Not less than 30 days before the discontinuance of a center the governing board shall mail to each person having custody of a child in attendance at such center a notice of the intended discontinuance

of the center and the date the discontinuance will become effective, and shall post a similar notice at the center.

56827. Any unencumbered balance remaining in a district "development center for handicapped pupils fund" may be deposited in the general fund of the school district one year after the discontinuance of its center program pursuant to Section 56826.

56828. The governing board shall insure against the liability, other than a liability which may be insured against under Division 4 of the Labor Code, imposed upon the district by any law of this state, in any insurance company authorized to do business in this state. The cost of such insurance shall be paid out of the "development center for handicapped pupils fund" of the district.

56829. An Advisory Committee on Development Centers for Handicapped Pupils shall be established to aid in setting standards for admission to centers, and to advise the Department of Education in the administration and operation of centers. The advisory committee shall consist of one member from the Department of Benefit Payments to be appointed by the Director of Benefit Payments, one member from the State Department of Health to be appointed by the Director of Health, one member from the Department of Education to be appointed by the Director of Education, one lay member from the general public and one parent of a handicapped pupil to be appointed by the Director of Education, and four members each from a school district or a county superintendent of schools office participating in the program to be appointed by the Director of Education. The member from the Department of Education shall serve as secretary of the committee.

The members of the committee shall serve without compensation, except that they may receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including travel expenses.

56830. The governing board of any school district, or any county superintendent of schools, may provide for the transportation of pupils between their homes and the center attended by them as provided by a school district, or may make payments to parents or guardians for providing transportation.

The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools an amount equal to the current expense of transporting severely handicapped pupils or making payments to parents or guardians for such purpose, but not to exceed the cost of six hundred seventy-five dollars (\$675), for each unit of average daily attendance in a center per year resulting from the attendance of such pupils transported between home and the center. Average daily attendance as used herein shall be determined on the basis of 230 days per year.

56831. The Director of Education shall employ such persons as are necessary to the coordination and supervision of services provided by development centers for the handicapped.

56832. Whenever a school district governing board or county

superintendent of schools is required to close temporarily a development center maintained under this chapter, because of fire, flood, epidemic, an order described in Section 41422, or other emergency, the Superintendent of Public Instruction shall determine the approximate amounts of state funds which would have been earned under Section 56810 by the school district or county superintendent for the period involved if there had been no closure. The amount so determined shall be granted to the school district or county superintendent of schools provided that the fact of such closure has been established to the satisfaction of the Superintendent of Public Instruction by the affidavits of the county superintendent of schools or of the members of the governing board of any such school district involved.

56833. Notwithstanding any other provisions of this chapter or of Article 3 (commencing with Section 16190) of Chapter 8 of Part 10 of Division 1 of Title 1, whenever the school district wherein the development center is located does not have adequate facilities to provide for the education of physically handicapped or mentally retarded pupils in development centers, such school district shall apply pursuant to Section 16200 for such funds as may be necessary to construct needed facilities for the education of such pupils. The applicant school district shall accept such funds as are disbursed pursuant to the application whether or not the funds constitute the maximum amount applied for, and shall repay such funds in accordance with the provisions of Article 3 (commencing with Section 16190) of Chapter 8 of Part 10 of Division 1 of Title 1.

In addition to the payments required by Section 56814 when the district is providing education to any physically handicapped or mentally retarded pupils in a development center, facilities constructed pursuant to an application and apportionments under Section 16200, the county or city and county of the pupil's residence shall pay to the school district maintaining such facilities a pro rata share of the repayment required pursuant to Section 16200. The pro rata share shall be based upon the ratio in the previous fiscal year of units of average daily attendance of physically handicapped or mentally retarded pupils being educated in development centers from the county or city and county of residence to the total number of such units of average daily attendance. Payments so received by the school district maintaining the facilities shall be deposited in the general fund of the district to offset amounts withheld by the State Controller pursuant to Section 16200.

56834. The enrollment of otherwise eligible pupils shall be on a first-come, first-served basis. Enrollment priorities shall not favor the admission of an otherwise eligible pupil living with a parent or guardian over an otherwise eligible pupil living in an out-of-home residential placement who has applied earlier in time for admission if such pupil is a resident of the school district, or if the pupil is not a resident of the school district but an interdistrict attendance agreement has been made with the district of residence pursuant to

## Section 56807.

## Article 2. Admission of Residents of Children's Homes

56865. The governing board of a school district or a county superintendent of schools which maintains and operates one or more development centers for handicapped pupils may admit to such centers pupils who live in regularly established licensed children's institutions or in a family home, pursuant to a commitment or placement under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code, located either within or without the district or county.

In the event that a child lives in a regularly established licensed children's institution or in a family home, pursuant to a commitment or placement under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code in a school district or county which maintains and operates a development center for handicapped pupils, the governing board of such a school district or the county superintendent of schools may admit such a pupil, provided that the county board of education of the county or city and county in which the child resided prior to his admission to the children's institution or family home approves of the admission and agrees to reimburse the school district or county maintaining the development center for the actual local costs of educating each such child.

If the child's prior residence cannot be ascertained or if his residence was outside the state, the district or county shall be reimbursed for the actual local cost of educating such pupil by the county or city and county in which the institution or family home is located, provided that admission has been approved by the county board of education of that county. The pupil residing in an institution or family home under this section does not acquire residence in the district wherein the institution or family home is located during the period of living in the institution or family home.

Claims by a school district or county superintendent of schools for actual local cost of educating pupils admitted to development centers for handicapped pupils shall be processed and paid in the same manner as provided in this chapter for other pupils and the applicable provisions of this chapter shall govern the process and payment of such claims.

## PART 31. EXPERIMENTAL SCHOOL PROGRAMS

## CHAPTER 1. DEMONSTRATION SCHOLARSHIP ACT OF 1973

## Article 1. General Provisions

58000. This chapter shall be known and may be cited as the Demonstration Scholarship Act of 1973.

It is the intent of the Legislature to enable one or more school districts in the State of California to participate in no more than four demonstration programs designed to develop and test the use of education scholarships for schoolchildren.

58001. The Demonstration Scholarship Program is designed to test the proposition that permitting schoolchildren and parents to choose among schools, including schools offering differing approaches to instruction will develop a school system more responsive to the students it serves.

The program in each participating school district shall be designed to produce maximum flexibility and versatility in all aspects of the development of the program including, but not limited to, budgeting, research, evaluation, parent-teacher relations, curriculum, and staffing.

58002. As used in this chapter:

(a) "Demonstration Scholarship Program" means a program for developing and testing the use of demonstration education scholarships for schoolchildren in kindergarten and grades 1 to 12, inclusive, or any combination thereof.

(b) "Demonstration area" means the area located within the boundaries of a school district designated by the participating local board for the purposes of a demonstration program.

(c) "Scholarship" means the drawing right, certificate or other document made available to participating parents or legal guardians by the demonstration board, which may not be redeemed except by participating schools which satisfy the requirements of this chapter.

(d) "Demonstration board" means a high school, unified or elementary school district governing board, or a combination of such school district governing boards or a board appointed by the participating local board or boards for the duration of the demonstration under the terms and conditions established by the local board or boards, contracting with a state or federal governmental agency to conduct a demonstration scholarship program.

(e) "Participating school" is a school located within the boundaries of a school district which has been selected by a demonstration board to receive demonstration scholarships, and otherwise meets the requirements of this chapter.

(f) "Contract" means the agreement entered into by a local board and a state or federal governmental agency for the purpose of conducting a demonstration scholarship program.

(g) "Participating local board" means the governing board of a school district participating in a demonstration scholarship program.

## Article 2. Establishment and Administration

58010. There is hereby established the Demonstration Scholarship Program, to exist for not more than seven years commencing upon the effective date of this section.

58011. A school district governing board, or combination of school district governing boards, may contract with a state or federal governmental agency to establish a demonstration scholarship program and to receive funds to support such programs. There shall be no more than four demonstration scholarship programs.

58012. Any decision by a governing board to participate in a demonstration scholarship program, and any decision by the board relating to such a program, is a proper subject for meeting and conferring under Chapter 2 (commencing with Section 7100) of Part 5 of Division 1 of Title 1.

58013. The demonstration board shall control and administer the demonstration program, and shall adopt rules and regulations for the efficient administration of the demonstration scholarship program. These rules and regulations shall provide for the following:

(a) Comprehensive information on all eligible schools, as defined in Section 58019, shall be disseminated by the demonstration board to the parent or guardian of each eligible child in the demonstration area within a reasonable period of time prior to the commencement of the school year for which the demonstration scholarships are to be issued.

Provision shall be made to advise all eligible recipients of the opportunities available to them under this chapter.

(b) The demonstration board shall ascertain that no arbitrary action by any school would invalidate the admissions standards established in this chapter, and may review, approve or disapprove the expulsion or suspension of any student by any eligible school.

There shall be an advisory board consisting of parents, teachers, administrators, and other appropriate persons selected by such procedures as may be developed by the demonstration board.

58014. The scholarship funds may be made available for the 1973-74 school year, and for each subsequent year of the demonstration.

58015. The demonstration board shall award a scholarship to each schoolchild residing in the demonstration area, subject only to such age and grade restrictions which it may establish.

The scholarship funds shall be made available to the parents or legal guardian of a scholarship recipient in the form of a voucher, drawing right, certificate, or other document which may not be redeemed except by participating schools which satisfy the requirements of this chapter.

58016. All scholarships are exempt from state income taxes.

58017. The demonstration board shall establish the amount of the scholarship in a fair and impartial manner, as follows:

(a) There shall be a basic scholarship for every eligible student in the demonstration area. The method of computing the value of the scholarship shall be included in the contract.

(b) In addition, there shall be a compensatory scholarship for disadvantaged children. The amount of such compensation scholarships and the manner by which children may qualify for them

shall be included in the contract.

58018. The contract shall provide for additional pupil transportation costs incurred by the district as a result of the demonstration. The contract shall provide funds for increased costs by the transition and operation of a demonstration scholarship program.

58019. The demonstration board shall authorize the parents or legal guardian of scholarship recipients to use the demonstration scholarships at any school in which the scholarship recipient is enrolled which also:

(a) Meets all health and safety standards required by law.

(b) Does not discriminate in the admission of students and the hiring of teachers on the basis of race, religion, color, national origin, economic status, political affiliation, or sex and has filed a certificate with the State Board of Education that the school is in compliance with Title VI of the Civil Rights Act of 1964 (Public Law 88-352); and provides that students from disadvantaged racial or bilingual minority groups be admitted in proportion as such students make application; and takes an affirmative position to secure a racially, ethnically, and socioeconomically integrated student body which shall, to the greatest possible extent, reflect the racial, ethnic, and socioeconomic composition of the demonstration area. Any school that receives applications in excess of enrollment capacity shall fill at least 50 percent of its enrollment capacity by a lottery among the applicants, to further assure nondiscriminatory admissions procedures, except when the contract provides that students currently enrolled and their younger siblings are not subject to the lottery. Enforcement of this subdivision shall be vested in the demonstration board. The demonstration board shall immediately investigate all complaints of violations of this subdivision and, after adequate notice and hearings, shall suspend redemption of any scholarships by any school in violation of this subdivision. The decision of the demonstration board shall be final, except that nothing in this subdivision shall be construed so as to deny judicial review. In the event an otherwise eligible school is subsequently found to be ineligible, the demonstration board shall immediately notify the parents of the students in attendance of such ineligibility. In such a case the district shall provide for the continuing education of the child at another school.

(c) In no case levies or requires any tuition, fee, or charge to the participating student above the value of the education scholarship.

(d) Files with the demonstration board a statement of financial responsibility in compliance with standards established by the demonstration board.

(e) Provides public access to all financial and administrative records and provides to the parent or guardian of each eligible child in the demonstration area comprehensive information, in written form, on the courses of study offered, curriculum, materials and textbooks, the qualifications of the teachers, administrators, and

paraprofessionals employed, the minimum schoolday, the salary schedules, the actual amount of money spent per pupil and such other information as may be required by the demonstration board. In no case shall the public have access to personal information concerning individual pupils without the express approval of the students' parents or guardians.

(f) Offers a comprehensive course of study in the basic skill areas of mathematics and the English language.

(g) Maintains a register of reports, including monthly attendance, and any other information as may be required by the demonstration board.

(h) Expends the scholarship funds exclusively for the secular education of students.

58020. (a) No participating local board shall require a certificated employee of the district to serve in a participating school except under such circumstances and in accordance with such procedures as are approved by the certificated employee council of the demonstration area.

(b) Each participating local board shall provide for the advice and assistance of the certificated employees of the district in the development of the demonstration scholarship program. Such duties for certificated employees shall be instead of the classroom or other duties normally performed by them.

(c) The participating local board shall employ a teacher coordinator in each participating school. Such person shall be selected by the teachers of the participating school from among their number, and shall be assigned the coordinator duties in place of a portion of his regular teaching assignments.

(d) Each participating local board shall make in-service training relevant to the demonstration scholarship program available to teachers in participating schools.

58021. The demonstration board may suspend redemption of any scholarships by any school not complying with the provisions of this chapter, after appropriate notice and hearings.

58022. Each demonstration board shall establish a parent-teacher needs assessment committee whose function shall be to evaluate how well the educational needs of pupils within the demonstration area are being met by the participating schools.

58023. The Superintendent of Public Instruction and other officers of the public school system shall take such actions as are within their power to assure that the demonstration board and participating schools have the flexibility needed to effectively carry out the intent of this chapter as defined in Section 58001.

58024. The Superintendent of Public Instruction may, upon the request of a demonstration board, waive selectively the application of any provision of this code to a participating school, except for the provisions of this chapter.

Such waivers may be requested on behalf of participating schools, and on behalf of an appropriate number of schools in the

demonstration area which are not participating in the demonstration scholarship program.

The purpose of making waivers available to nonparticipating schools is to permit the establishment of a control group of schools of comparable characteristics and size with the flexibility to innovate in education without using demonstration scholarships. This may be done in order to compare the progress of students and the type and variety of educational offerings of control group schools with that of schools participating in the Demonstration Scholarship Program.

No statutory financial penalties shall be assessed during the period of the demonstration which are associated with those sections of this code which may be waived by the participating local board for the purposes of the demonstration.

58025. The demonstration board may rent or lease any of its property, equipment, buildings, or other facilities for the duration of the program.

58026. The demonstration board may authorize any certificated or classified employee to take a leave of absence for the duration of the demonstration scholarship program for the purpose of accepting employment directly related to the demonstration scholarship program.

58027. The demonstration board may:

- (a) Employ a staff for the demonstration board.
- (b) Receive and expend funds to support the demonstration board and scholarships for children in the demonstration area.
- (c) Contract with other governmental agencies and private persons or organizations to provide or receive services, supplies, facilities, and equipment.
- (d) Determine rules and regulations for use of scholarships in the demonstration area.
- (e) Adopt rules and regulations for its own government.
- (f) Receive and expend funds from the state or federal governmental agency necessary to pay for the costs incurred in administering the program.
- (g) Establish criteria for the selection of textbooks and make selection of textbooks different from that prescribed elsewhere in this code. No explicit waivers of the provisions of this code are necessary for this purpose.
- (h) The demonstration board shall develop and publicize an evaluation system for the demonstration scholarship program.
- (i) Undertake other such activities as are necessary and incidental to carry out the purposes of this program.
- (j) Make any appropriate use of participating school facilities, equipment, and supplies.

58028. The meetings of the demonstration board shall be open to the public and the residents of the demonstration area shall be afforded the regular opportunity to express themselves before the demonstration board.

## Article 3. Attendance

58040. The participating local board shall receive all public funds allocable to the demonstration area, and shall transfer these funds to the demonstration board. These funds shall include moneys apportioned to the district from the State School Fund and the proceeds of the property taxes levied for the district. For the purpose of this chapter, the participating local board shall not take any discretionary action to reduce the local property tax rate during the demonstration period.

The demonstration board shall use these funds for the demonstration scholarship program as provided in this chapter and the terms of the demonstration contract.

58041. Participating schools may receive grants or gifts from foundations, charitable trusts, governmental agencies, or other public or private sources. Participating schools shall maintain financial records which clearly report all income, trusts, bequests, gifts, grants, or donations which are used to defray the actual costs of educating students in attendance. This section may not be construed, however, to permit schools to receive funds for the purpose of supplementing the demonstration scholarships.

## Article 4. Control by State Officers

58050. The purpose of this article is to permit the demonstration board to include privately owned schools among the choices from which parents and pupils may select in using a demonstration scholarship, to broaden the range of parental choice.

A demonstration board may permit privately owned schools to participate in the demonstration scholarship project on a selective and experimental basis; provided that a privately owned school which participates in the program, for the duration of such participation, shall operate under the exclusive control of officers of the public schools within the meaning of Section 8 of Article IX of the California Constitution, and shall meet all requirements of this code, except such requirements as are waived pursuant to this chapter.

Each privately owned school which becomes a participating school shall enter into an agreement with the demonstration board setting the terms of participation. Such terms shall assure the exclusive control required by Section 8 of Article IX of the California Constitution and this chapter.

58051. For the purposes of this article:

(a) "Officers of the public schools" means the demonstration board.

(b) "Privately owned school" or "privately owned schools" means an educational institution or institutions which are not controlled by any religious creed, church, or sectarian denomination whatever, nor have as their objective the furtherance of any religious sect, church,

creed, or sectarian purpose, either directly or indirectly.

(c) "Exclusive control" means:

(1) The power to promulgate general rules and regulations regarding the use of demonstration scholarships.

(2) The power to establish the amount of the scholarship.

(3) The power to prescribe rules and regulations which are binding upon participating schools.

(4) The power to establish standards for teachers, instructors, and textbooks.

(5) The power to review and approve the suspension or expulsion of a pupil of a participating school.

(6) The power to make any appropriate use of participating school facilities, equipment, and supplies.

### Article 5. Construction of Chapter

58060. The provisions of this chapter shall be liberally construed with a view to effect its object and promote its purposes.

58061. If any section, subdivision, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have enacted this chapter and each section, subdivision, sentence, clause, or phrase thereof, irrespective of the fact that any one or more of the sections, subdivisions, sentences, clauses, or phrases be declared unconstitutional.

### CHAPTER 2. INDIVIDUAL INSTRUCTION

58400. The Legislature hereby finds and declares that several schools have developed programs of individualized instruction based upon performance criteria, including the integration of vocational education with the regular coursework, which have greatly improved their students' achievement and that the success of such programs offers great promise for improving the effectiveness of education throughout the state. The Legislature intends to extend the use of individualized instruction programs on a large scale and to immediately organize a comprehensive program of individualized instruction based upon performance criteria in a major urban school district. Such a comprehensive program shall:

(a) Address the range of socioeconomic-educational problems of urban school children which will be faced by other urban school districts which may desire to develop individualized instruction programs.

(b) Convert the entire curriculum for kindergarten through 12th grade and articulate the curriculum with a community college.

(c) Fully integrate vocational education with the regular curriculum in order to acquaint students with a variety of career alternatives and to provide them with flexible opportunities to

acquire the combination of vocational and academic skills required for their individual educational and career objectives.

(d) Draw together existing experience, techniques, and material in the field of individualized instruction, and produce an increased fund of economically reproducible instructional resources to accelerate large-scale conversion of schools in other school districts of the state.

(e) Provide a careful evaluation of the effectiveness of individualized instruction and the problems of conversion, including teacher training, curriculum design and production, integration of vocational education with the regular coursework, and plant utilization. Such an evaluation will help other school districts avoid pitfalls and unnecessary expenditures and permit their programs of individualized instruction to be developed with maximum efficiency and effectiveness.

(f) Provide a major opportunity to design and test the criteria and tools for measuring educational performance. Such an opportunity shall contribute essential information and experience to efforts to set goals and measure performance in all the schools of this state.

(g) Provide the Governor and the Legislature with more precise information on the fiscal requirements for converting schools in this state to programs of individualized instruction.

58401. As used in this chapter "individualized instruction based upon performance criteria" means an educational method in which (a) aptitudes, interests, motivations, and other characteristics of each student play a major role in the selection of educational objectives and the determination of the sequence of study and choice of materials and procedures; (b) the time spent by each student in a given subject area is determined by his performance; and (c) the progress of each student is measured by comparing his performance with a specific objective, rather than with the performance of other students.

58402. The Legislature further finds and declares that funds are needed to convert the regular curriculum to individualized instruction and integration of vocational education and that once such conversion and integration have been accomplished, such program shall operate on the funds regularly available to the school districts.

58403. The State Board of Education shall establish application procedures and select a school district to undertake an individualized instruction program pursuant to this chapter. The specific goal of the individualized instruction program authorized by this article shall be to convert at least one high school and the network of elementary and junior high schools which provide students to that high school to a program of individualized instruction based upon performance criteria, including the full integration of vocational education with the regular coursework, and to articulate this program with a community college. In authorizing this program, the Legislature recognizes that conversion of the entire network of schools may

require incremental development beginning, for example, with a high school, one junior high school, and one elementary school.

58404. In selecting a school district to undertake an individualized instruction program pursuant to this chapter, the board shall use the following criteria:

(a) The school district shall be a large urban unified district, which had an average daily attendance of not less than 30,000 for the school year 1967-1968, and which has an agreement with a community college to articulate their curricula.

(b) The high school and network of junior high and elementary schools shall be representative of the range of socioeconomic-educational problems faced by urban schools.

(c) The local board of education and administrators of the school district and the administrators and teachers of the schools to be involved shall be strongly committed to the goals of the individualized instruction program.

(d) The individualized instruction program shall be carried out with maximum participation of the teachers and administrators of the individual schools and with substantial flexibility for each school to establish its own program within the framework of general goals and requirements for the overall program within the school district.

(e) The school district shall have a plan for community involvement with the program, including students, parents, and representatives of business, industry, organized labor, community and civic organizations, and the general public.

(f) The cost experience of the individualized instruction program and the instructional technology used in the school district shall be readily transferable to other schools in the state.

(g) The schools selected by the district to participate in the program shall receive entitlement equivalent to the total amount of resources from state, local and federal funds which would otherwise be provided the schools under the district's current budgeting procedures.

(h) The instructional program shall include the full integration of vocational education with the regular curriculum and shall acquaint students in all grades with career alternatives and the relevancy of the school curricula to achieving career objectives.

(i) The school district shall have a written statement adopted by the local board of education setting forth the goals, and to the extent feasible, the measurable objectives of education in the district.

58405. In selecting the school district to undertake the individualized instruction program pursuant to this chapter, the State Board of Education shall conduct a thorough field review in order to make independent judgments of the suitability of a district to participate in the program. The field review shall include a rating of the levels of commitment of the teachers and administrators to the individualized instruction program set forth in this chapter.

58406. The district selected to undertake the program authorized by this chapter shall have complete responsibility for the program's

progress and success. The staff of the Department of Education shall serve as a resource team that shall provide technical assistance and advice to the school district.

58407. The State Board of Education may waive any provision of the Education Code, with the exception of Sections 15501 to 15518, inclusive, and Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 of Division 3 of this title, which it deems is necessary to waive to assure the success of the program authorized by this chapter.

58408. The district selected pursuant to this chapter shall, at the inception of the program, design an evaluation system for the program and shall submit an evaluative report to the Governor, the Legislature, and State Board of Education annually following each year of program operation for three years.

The district may seek the advice of the Joint Committee on Goals and Evaluation in designing the evaluation system.

The evaluation system shall be based upon the set of goals and objectives established by the school district and the evaluation system shall compare the effectiveness of the schools funded under this article against the other schools in the district striving for the same set of goals and objectives. The evaluation system shall include, but need not be limited to:

(a) Measuring the relative success of students in defining and achieving their individual educational and career objectives.

(b) Measuring changes in student performance, student attendance, student attitudes toward school, community support of the schools, and teacher morale.

(c) Measuring the costs of converting to the individualized instruction program and any differences between the newly developed program of individualized instruction and the prior educational program. One purpose of the cost measurements shall be to provide the Governor and the Legislature with more precise information on the fiscal requirements for converting other public schools in this state to individualized instruction programs.

58409. District evaluation and reporting requirements required by this article shall not supersede other legal requirements.

It is the intent of the Legislature, however, that the State Board of Education and the Department of Education make every effort to use the evaluation and reporting requirements under this chapter in fulfilling any other legal requirements in order to minimize the administrative burdens on the school district.

58410. The Legislative Analyst shall:

(a) Review the quality of the evaluation system designed in accordance with Section 58408 and report to the Legislature on the outcome of such review.

(b) Analyze the problems of converting the curriculum to individualized instruction, including, but not limited to, teacher training, curriculum design and production, the integration of vocational education with the regular coursework, and plant

utilization.

(c) Analyze the problems of basing the curriculum or performance criteria, including setting goals, designing measurement criteria, and measuring performance.

(d) Analyze the transferability of components of the individualized instruction program curriculum to other school districts which may desire to convert to programs of individualized instruction.

(e) Analyze the waiver of any provision of the Education Code that was requested by the school district and granted by the State Board of Education to determine if statutory or constitutional changes are necessary to encourage and assure success of conversion of other districts to individualized instruction.

(f) Carry out such other analytical tasks as he may deem appropriate.

58411. The Legislative Analyst shall file a final report on his evaluative findings with the Governor, the Legislature, and the State Board of Education not later than the January 5 following four years of operation of the individualized instruction program authorized by this chapter.

58412. In order to provide this state with a long-term program for educational conversion, the Department of Education shall develop a plan to systematically individualize instruction in the schools of this state and to integrate vocational education with the regular curriculum. The plan shall:

(a) Be submitted on or before September 15, 1973, to the Joint Legislative Budget Committee, the Chairman of the Senate Committee on Education, and the Chairman of the Assembly Committee on Education to allow for the legislative policy committees to hold public hearings and carry out such other activities as may be necessary to develop legislative proposals.

(b) Specify the fiscal requirements for the school conversion effort and the support of such schools following conversion to individualized instruction and integration of vocational education. In determining such requirements, the department shall prescribe the role, if any, which funds from at least the following sources shall play:

- (1) The Elementary Secondary Education Act.
- (2) The National Defense Education Act.
- (3) The Economic Opportunity Act.
- (4) The Vocational Education Act; and
- (5) The Miller-Unruh Basic Reading Act.

(c) Specify criteria for selection of school districts, including, but not be limited to, the criteria set forth in subdivisions (c), (d), (e), (g), and (h) of Section 58404. Such criteria shall also indicate that the next schools to participate in the conversion program shall each reflect distinctly different educational environments such as a high concentration of racial or ethnic minority students, a significant percentage of bilingual or non-English-speaking students, or very low assessed valuation per average daily attendance.

(d) Present a design for a long-term evaluation of the success and progress of the conversion program.

(e) Outline the requirements for technical assistance to school districts in the conversion program, including a description of the most effective involvement of the staff of the Department of Education.

(f) Specify changes needed in the state textbook policy to assist the conversion program.

(g) Set forth such other information as the department may deem necessary.

### CHAPTER 3. ALTERNATIVE SCHOOLS

58500. The governing board of any school district may establish and maintain one or more alternative schools within the district.

For the purposes of this article, an alternative school is defined as a school or separate class group within a school which is operated in a manner designed to:

(a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.

(b) Recognize that the best learning takes place when the student learns because of his desire to learn.

(c) Maintain a learning situation maximizing student self-motivation and encouraging the student in his own time to follow his own interests. These interests may be conceived by him totally and independently or may result in whole or in part from a presentation by his teachers of choices of learning projects.

(d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter. This opportunity shall be a continuous, permanent process.

(e) Maximize the opportunity for the students, teachers, and parents to continuously react to the changing world, including but not limited to the community in which the school is located.

58501. The following notice shall be sent along with the notification of parents and guardians required by Section 48980:

#### “Notice of Alternative Schools

California state law authorizes all school districts to provide for alternative schools. Section 58500 of the Education Code defines alternative school as a school or separate class group within a school which is operated in a manner designed to:

(a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.

(b) Recognize that the best learning takes place when the student learns because of his desire to learn.

(c) Maintain a learning situation maximizing student

self-motivation and encouraging the student in his own time to follow his own interests. These interests may be conceived by him totally and independently or may result in whole or in part from a presentation by his teachers of choices of learning projects.

(d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter. This opportunity shall be a continuous, permanent process.

(e) Maximize the opportunity for the students, teachers, and parents to continuously react to the changing world, including but not limited to the community in which the school is located.

In the event any parent, pupil, or teacher is interested in further information concerning alternative schools, the county superintendent of schools, the administrative office of this district, and the principal's office in each attendance unit have copies of the law available for your information. This law particularly authorizes interested persons to request the governing board of the district to establish alternative school programs in each district."

Further, a copy of the notice shall be distributed to each teacher of the district before March 1 of each year and copies shall be posted in at least two places normally visible to pupils, teachers, and visiting parents in each attendance unit for the entire month of March in each year.

58502. The parent or guardian of any pupil may request the governing board of a school district to establish an alternative school program or programs in the district pursuant to this chapter.

58503. Teachers employed and students enrolled in the alternative school shall be selected entirely from volunteers.

58504. Previous classroom performance shall not be a criterion limiting any student from the opportunity of attending an alternative school.

58505. Each school district may enroll not more than 10 percent of its total average daily attendance during the preceding fiscal year in alternative schools. A district may establish alternative schools in each attendance area or on a districtwide basis, with enrollment open to all students districtwide, or any combination thereof.

58506. The maximum percentage prescribed by Section 58505 may be waived by the Superintendent of Public Instruction on a showing by the district that it has been or is in a position to continue to operate its program in an alternative school manner without the loss of its experimental value. However, if any school district has more than 10 percent of its total average daily attendance during the preceding fiscal year in alternative schools, the Superintendent of Public Instruction shall not be permitted to waive any provision of this code in the operation of such schools as otherwise authorized pursuant to Section 58509.

58507. Alternative schools shall be operated in a manner to maximize the opportunity for improvement of the general school curriculum by innovative methods and ideas developed within the

alternative school operation and to improve the general level of education in the State of California as provided in Section 58510.

Any alternative school shall be maintained and funded by the school district at the same level of support as other educational programs for children of the same age level operated by the district.

58508. There shall be no racial, sex, or ethnic discrimination in any aspect of the operation of alternative schools.

58509. For the operation of alternative schools as herein defined, the Superintendent of Public Instruction may, upon application of a school district, waive any provisions of this code other than those relating to earthquake safety and the provisions of this article.

58510. Each district operating an alternative school shall annually evaluate such school. The evaluation shall include pre- and post-testing of basic skills for student participants, and must identify the variables which may have affected student academic achievement. The process of evaluation shall also include teacher, parent, and student input from the alternative school itself. These evaluation reports will be sent to the Superintendent of Public Instruction on or before August 1st of the following year.

58511. The Superintendent of Public Instruction shall establish minimum standards to further implement the definition of alternative schools as used in Section 58500 and may also establish such further guidelines as may be deemed by him necessary to the proper administration of this article.

58512. The governing board of a school district maintaining an alternative school may provide in whole or in part for the transportation of a pupil attending the alternative school. In lieu of providing such transportation, the governing board may pay to the parents or guardian of the pupil a sum not to exceed the cost of actual and necessary travel incurred in transporting such pupils in cases where transportation is provided by or paid for by the parents or guardian; provided, that in no case shall the district's state apportionment for transportation expenses be increased because of the operation of an alternative school.

58513. On or before February 1st of each year, the Superintendent of Public Instruction shall submit to the Legislature a report showing the number and type of alternative schools operated by school districts pursuant to Section 58509 and the success of such programs as reported by the district operating them. The superintendent shall include in such report his comments regarding the effectiveness of alternative school programs.

58514. The chapter shall become operative on July 1, 1976, shall cease to be operative on July 1, 1980, and, as of July 1, 1980, is repealed.

#### CHAPTER 4. DEMONSTRATION PROGRAMS IN INTENSIVE INSTRUCTION

58600. It is the intent and purpose of the Legislature that exemplary programs be established for intensive instruction in reading and mathematics to serve as demonstration projects aimed solely at developing, within pupils, above-average competence in these basic skill subjects. The program shall be developed to serve pupils in grade 7, 8, or 9 who attend school in designated areas of disadvantage, and who otherwise would find difficulty in achieving complete success in high school.

It is the further intent of the Legislature that these programs in intensive instruction in reading and mathematics be operated by school districts directly, or by school districts through contract for partial or complete operation with any competent public or private agency, foundation or corporation. It is also the intent of the Legislature that authority be granted to permit the waiver of any provision of the Education Code by the program approving agency, if such is necessary for the development of model demonstration programs in the intensive instruction in reading and mathematics.

(Amended and renumbered Section 58601 and added by Stats. 1976, Ch 1011 )

##### [ORIGINAL SECTION]

58600. From the funds appropriated therefor by the Legislature to the Department of Education for the purposes of this chapter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this chapter and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing demonstration programs in the intensive instruction in reading and mathematics for pupils in grades 7, 8, or 9

No project expenditures of a district in excess of the average expenditure of the district for the prior fiscal year per unit of average daily attendance, excluding categorical funds, for any single project shall exceed 50 percent of the average expenditure of the district for the prior fiscal year per unit of average daily attendance, excluding categorical funds. The State Board of Education, in approving projects, shall ensure that selected projects differ in project cost per pupil by at least three hundred dollars (\$300)

58601. From the funds appropriated therefor by the Legislature to the Department of Education for the purposes of this chapter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this chapter and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing demonstration programs in the intensive instruction in reading and mathematics for pupils in grades 7, 8, or 9.

No project expenditures of a district in excess of the average expenditure of the district for the prior fiscal year per unit of average daily attendance, excluding categorical funds, for any single project shall exceed 50 percent of the average expenditure of the district for the prior fiscal year per unit of average daily attendance, excluding categorical funds. The State Board of Education, in approving projects, shall ensure that selected projects differ in project cost per

pupil by at least three hundred dollars (\$300).

(Amended and renumbered Section 58602 and added by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

58601. The governing board of any district which maintains grades 7, 8, or 9 on account of any school or schools located in any area designated by the Superintendent of Public Instruction pursuant to the provisions of Section 54483, may make application to establish and operate a program under this article. The application shall be in the form and shall contain such data and information as the superintendent shall specify, including how demonstration programs shall include dissemination and replication activities.

58602. The governing board of any district which maintains grades 7, 8, or 9 on account of any school or schools located in any area designated by the Superintendent of Public Instruction pursuant to the provisions of Section 54483, may make application to establish and operate a program under this article. The application shall be in the form and shall contain such data and information as the superintendent shall specify, including how demonstration programs shall include dissemination and replication activities.

(Amended and renumbered Section 58603 and added by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

58602. The governing board of a school district, in its application, may request waiver of the provisions of any section or sections of this code for any compensatory education program if such waiver is necessary to establish and operate a program for low-income children. The need for a waiver shall be explained and justified in the application. The Superintendent of Public Instruction, with the approval of the State Board of Education, may grant, in whole, or in part, any such request.

58603. The governing board of a school district, in its application, may request waiver of the provisions of any section or sections of this code for any compensatory education program if such waiver is necessary to establish and operate a program for low-income children. The need for a waiver shall be explained and justified in the application. The Superintendent of Public Instruction, with the approval of the State Board of Education, may grant, in whole, or in part, any such request.

(Amended and renumbered Section 58605 and added by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

58603. The State Board of Education shall adopt regulations setting forth the standards and criteria to be used in the evaluation of applications submitted by school districts. The standards and criteria adopted by the State Board of Education, among other items, shall include a statement of specific goals to be sought in the program both in terms of pupil achievement and for the purpose of establishing a model program, and the requirements for evaluation of the program

Projects shall be approved only if it can be shown that, if successful, the cost effectiveness of the project (a) will be adaptable within the budgets of other similar school districts throughout the state, or (b) can be replicated using other existing compensatory education funds in grades 7, 8, and 9, or (c) can be replicated if additional compensatory education funds become available for use in grades 7, 8, or 9

All project approvals shall show if the project was approved under provision (a), (b), or (c), above.

Projects shall be continually reviewed regarding their effectiveness in improving the achievement levels of pupils in reading and mathematics. Projects which are least cost effective shall be terminated and shall be replaced with ones of proven

effectiveness or by new projects which hold promise of increased effectiveness.

58604. The governing board of the school district may make application to establish and operate a demonstration program under this article directly, or may make application to provide for partial or complete operation of such a program through a contract with any competent public or private agency, foundation or corporation.

(Amended and renumbered Section 58607 and added by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

58604. No later than January 30 of each year, the Superintendent of Public Instruction, with approval of the State Board of Education, shall submit a report to the Legislature on the implementation and evaluation of demonstration programs under this chapter, including the achievement of pupils, dissemination and replication activities, the number of school districts that have replicated the demonstration projects and the funding sources used for such replication, and an analysis of the costs of each demonstration project detailed in terms of the costs of design, implementation and continuing operational expenses, including the degree of cost effectiveness of each project. The report shall also include recommendations concerning improvement, retention, extension or other aspects of the program. In addition, the report shall further include a description of how the Department of Education will use the demonstration programs as models for replication if other compensatory education funds are available for use in grades 7, 8, or 9.

The report shall also set forth the number of waivers authorized by the Superintendent of Public Instruction under Section 58602, the number of pupils who participated in programs for which waivers were granted, and whether or not the waivers had a positive effect upon the reading or mathematics skill of participating pupils.

Not later than November 1 of each year, the Superintendent of Public Instruction shall submit to the Department of Finance and the Legislative Analyst a synopsis of available data produced for the evaluation report.

58605. The State Board of Education shall adopt regulations setting forth the standards and criteria to be used in the evaluation of applications submitted by school districts. The standards and criteria adopted by the State Board of Education, among other items, shall include a statement of specific goals to be sought in the program both in terms of pupil achievement and for the purpose of establishing a model program, and the requirements for evaluation of the program.

Projects shall be approved only if it can be shown that, if successful, the cost effectiveness of the project (a) will be adaptable within the budgets of other similar school districts throughout the state, or (b) can be replicated using other existing compensatory education funds in grades 7, 8, and 9, or (c) can be replicated if additional compensatory education funds become available for use in grades 7, 8, or 9.

All project approvals shall show if the project was approved under provision (a), (b), or (c), above.

Projects shall be continually reviewed regarding their effectiveness in improving the achievement levels of pupils in reading and mathematics. Projects which are least cost effective shall be terminated and shall be replaced with ones of proven effectiveness or by new projects which hold promise of increased effectiveness.

(Amended and renumbered Section 58608 and added by Stats. 1976, Ch. 1011.)

## [ORIGINAL SECTION]

58605 This chapter shall have no force or effect after September 1, 1978

58606. Upon approval by the State Board of Education of an application under this article, the Superintendent of Public Instruction shall certify the amount to be apportioned to the applicant school district.

(Added by Stats. 1976, Ch. 1011.)

58607. No later than January 30 of each year, the Superintendent of Public Instruction, with approval of the State Board of Education, shall submit a report to the Legislature on the implementation and evaluation of demonstration programs under this chapter, including the achievement of pupils, dissemination and replication activities, the number of school districts that have replicated the demonstration projects and the funding sources used for such replication, and an analysis of the costs of each demonstration project detailed in terms of the costs of design, implementation and continuing operational expenses, including the degree of cost effectiveness of each project. The report shall also include recommendations concerning improvement, retention, extension or other aspects of the program. In addition, the report shall further include a description of how the Department of Education will use the demonstration programs as models for replication if other compensatory education funds are available for use in grades 7, 8, or 9.

The report shall also set forth the number of waivers authorized by the Superintendent of Public Instruction under Section 58602, the number of pupils who participated in programs for which waivers were granted, and whether or not the waivers had a positive effect upon the reading or mathematics skill of participating pupils.

Not later than November 1 of each year, the Superintendent of Public Instruction shall submit to the Department of Finance and the Legislative Analyst a synopsis of available data produced for the evaluation report.

(Added by Stats. 1976, Ch. 1011.)

58608. This chapter shall have no force or effect after September 1, 1978.

(Added by renumbering Section 58605, by Stats. 1976, Ch. 1011.)

## PART 32. STATE SCHOOLS FOR THE HANDICAPPED

### CHAPTER 1. CALIFORNIA SCHOOL FOR THE DEAF

#### Article 1. Administration

59000. There are two state schools for the deaf, known and designated as the California School for the Deaf, Northern California, and the California School for the Deaf, Southern California. The term

“California School for the Deaf” shall refer to both schools unless the context otherwise requires.

59001. The California School for the Deaf is a part of the school system of the state except that it derives no revenue from the State School Fund, and has for its object the education of the deaf who, by reason of their infirmity, cannot be taught in the public schools.

59002. The school is under the administration of the State Department of Education.

59003. The Department of Education in relation to the California School for the Deaf shall:

(a) Prescribe rules for the government of the school.

(b) Appoint the superintendent and other officers and employees.

(c) Remove for cause any officer, teacher, or employee.

(d) Fix the compensation of officers, teachers, and employees.

59004. The superintendent of the school shall have had not less than three years' experience in the art of teaching the deaf and shall hold a credential issued by the State Board of Education authorizing him to teach in secondary schools of this state.

59005. The powers and duties of the superintendent are such as are assigned to him by the Superintendent of Public Instruction.

59006. The Superintendent of Public Instruction may authorize the California School for the Deaf to establish and maintain teacher training courses designed to prepare teachers of the public schools and such other persons holding a credential issued by the State Board of Education as are recommended by the president of a campus of the California State University and Colleges, to give instruction to the deaf and the hard of hearing. The Superintendent of Public Instruction shall prescribe standards for the admission of persons to the courses, and for the content of the courses.

The California School for the Deaf may enter into agreements with the Trustees of the California State University and Colleges, the University of California, any other university or college accredited by the State Board of Education as a teacher training educational institution, to provide practice teaching required for issuance of the credential authorizing the holder to teach the deaf and severely hard of hearing. Such agreement may provide a reasonable payment, for services rendered, to teachers of the California School for the Deaf who have practice teachers under their direction.

59007. The Department of Education may employ any person, otherwise qualified, who has retired for service under either the Public Employees' Retirement System or the State Teachers' Retirement System as a substitute in a position requiring certification qualifications at the California School for the Deaf; provided, that the total of such service and any service rendered pursuant to Section 23919 shall not exceed 90 teaching days in any one fiscal year.

## Article 2. Pupils

59020. Every deaf person between the ages of 3 and 21 years, who is a resident of the state and who meets the criteria set forth in this section, is entitled to an education in the California School for the Deaf free of charge.

Priority in admission to the California School for the Deaf shall be given to elementary age deaf minors residing in sparsely populated regions and to secondary age deaf minors in need of a high school program, for whom appropriate comprehensive educational facilities and services are not available or cannot be reasonably provided by their local school districts or county educational agencies.

The criteria of admission to California Schools for the Deaf and Blind shall be administratively determined by the Superintendent of Public Instruction.

59021. On or before July 15, the superintendent of each California School for the Deaf shall report in writing to the governing board of each school district of residence the name of each pupil and the number of days attended by each pupil during the fiscal year. For each such pupil in attendance at a California School for the Deaf, under the provisions of this chapter, the school district of residence shall annually pay to the Department of Education an amount determined by (1) dividing the income credited to the general fund of the school district from the levy of the district tax rate, exclusive of taxes levied under Sections 15250, 15733, 16090, 42200, and 56811, by the average daily attendance of the school district, and (2) multiplying the quotient obtained by the ratio that the number of days the pupil attended the school for the deaf bears to the number of days the school for the deaf was in session.

For determining the school district responsible under the provisions of this section for making the payment when the pupil resides in other than a unified school district, pupils 15 years of age or older as of September 1 of each fiscal year shall be considered a resident of the high school district, and pupils 14 years of age or under as of September 1 shall be considered a resident of the elementary district.

The payment shall be made by the Controller withholding from the second principal apportionment of the fiscal year following the year of attendance the amount due on account of the attendance of pupils of the district at the California Schools for the Deaf as reported to the Controller by the Superintendent of Public Instruction, except that in no case shall the apportionment to a district be reduced below the amount prescribed by Section 6 of Article IX of the Constitution. The Controller shall transfer the amount withheld to, or in augmentation of, the appropriate Department of Education support appropriation for the support and maintenance of the appropriate school for the deaf.

59022. If a school district makes a payment in excess of the

amount due the department under the provisions of Section 59021, the department shall refund to the district, from the appropriation to which the payment was credited, the amount that is in excess of the amount due.

59023. If the parent or guardian of any pupil in the school is unable either himself or from the estate of the child to clothe the child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while at the school, or is unable either himself or from the estate of the child to reimburse the Department of Education for expenses incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency, the parent or guardian may apply for a certificate to that effect to the superior court of the county of which the parent or guardian of the child is a resident. If the court is satisfied that the parent or guardian either himself or from the estate of the child is unable to pay for any such service, it shall issue a certificate to that effect. The application for the certificate may also be made to the court by the superintendent of the school.

59024. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide the service for the child or to reimburse the Department of Education for expenses incurred by it in providing the service for the child in an emergency, the court shall not issue the certificate, but shall, according to the nature of the application before it, either order the superintendent to provide the child with the service or order the parent or guardian either himself or from the estate of the child, as the court determines, to reimburse the Department of Education for expenses incurred by it in providing the service for the child in an emergency.

59025. If the Department of Education is not reimbursed by the parent or guardian personally or from the estate of the child for expenditures made by the superintendent under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the Department of Education either personally or from the estate of the child for expenses incurred by it in providing the service for the child in an emergency, the superintendent may sue the parent or guardian, in the name of the state, to recover any money paid out by order of the court or due the Department of Education as reimbursement under an order of the court.

59026. All money expended under the authority of any such certificate for clothing and transportation, necessary dental work, eye care, operations, and hospitalization, and all money expended by the Department of Education for expenses incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency for which the Department of Education cannot be reimbursed by the parent or guardian of the child as shown by the certificate, constitutes a legal charge against the county

from which the certificate is issued. Expenditures for clothing and transportation shall not exceed the sum of three hundred eighty-five dollars (\$385) for the 1974-75 school year, and an amount thereafter which shall be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The State Controller shall determine the amount authorized pursuant to this section for the 1975-76 school year and thereafter.

59027. The certificate shall be presented to the superintendent of the school. When the certificate shows that the parent or guardian of the child is unable either himself or from the estate of the child to clothe the child, or pay for his transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while in school, the superintendent shall clothe the child and provide the transportation, necessary dental work, eye care, operations, and hospitalization. The expense of the services, or any of them, shall be advanced by the Department of Education out of money appropriated for the support of the school.

59028. Upon presentation to the county in which the certificate is issued, of an itemized claim, duly sworn to by the superintendent of the school before an officer authorized to administer oaths, for the expense for clothing, transportation, and other items provided and furnished under the authority of the certificate, or for the reimbursement of the Department of Education, the claim shall be processed and paid pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code. The amount paid and all reimbursements of the Department of Education under this section shall be credited to the current appropriation for the support and maintenance of the school.

59029. All pupils in the school shall be maintained at the expense of the state, except as provided in Sections 59021, 59023 to 59028, inclusive, 59030, and 59031.

59030. The governing board of each school district of residence shall, from the general fund of the school district, pay for the transportation cost of each pupil of the district in attendance at the California School for the Deaf as a day-class pupil.

For determining the school district responsible under the provisions of this section for making the payment when the pupils reside in other than a unified school district, pupils 15 years of age or older as of September 1 of each fiscal year shall be considered residents of the high school district, and pupils 14 years of age or under as of September 1 shall be considered residents of the elementary district.

59031. Deaf persons not residents of this state may be admitted to the benefits of the school upon paying to the Department of Education the school year cost for the maintenance, care, and instruction of persons at the school, payable quarterly in advance. The cost of the care, maintenance, and instruction shall be

determined by the Department of Education with the approval of the Department of Finance.

### Article 3. Services

59040. The Department of Education, in connection with the California School for the Deaf, may establish and maintain a preschool and kindergarten service for the care and teaching of children under school age. The department shall prescribe the rules and regulations which shall govern the conduct of the preschool and kindergarten service, appoint such teachers as it determines necessary, and fix their salaries.

59041. The Department of Education, in connection with the California School for the Deaf, may offer courses of instruction to parents of a deaf child to assist and instruct the parents in the early care and training of such child, to train the child in play, and to do everything which will assure the child's physical, mental and social adjustment to its environment.

59042. The Superintendent of Public Instruction may authorize the California School for the Deaf to establish and maintain a testing center for deaf and hard-of-hearing minors. It shall be the purpose of this center to test hearing acuity and to give such other tests as may be necessary for advising parents and school authorities concerning an appropriate educational program for the child.

59043. Nothing in this article and no rule or regulation established thereunder shall authorize the compulsory physical examination or medical treatment of any child or minor if the parent or guardian objects on the ground that such examination or treatment is contrary to the religious beliefs of such parent or guardian.

59044. The Department of Education, in connection with the California School for the Deaf which maintains automobile driver training courses, may purchase from available funds public liability, property damage, collision, fire, theft, and comprehensive automobile insurance for motor vehicles, whether owned by private parties or such school for the deaf, used in connection with such courses.

59045. The Superintendent of Public Instruction, in conjunction with the California School for the Deaf, shall provide assessment and instructional planning services for individuals who are referred for such services by responsible local agencies under subdivision (b) of Section 56336.

## CHAPTER 2. CALIFORNIA SCHOOL FOR THE BLIND

### Article 1. Administration

59100. There is one state school for the blind, known and designated as the California School for the Blind.

59101. The California School for the Blind is a part of the school system of the state except that it derives no revenue from the State School Fund, and has for its object the education of the blind, who, by reason of their infirmity, cannot be taught in the public schools.

59102. The school is under the administration of the Department of Education.

59103. The Department of Education in relation to the California School for the Blind shall:

- (a) Prescribe rules for the government of the school.
- (b) Appoint the superintendent and other officers and employees.
- (c) Remove for cause any officer, teacher, or employee.
- (d) Fix the compensation of officers, teachers, and employees.

## Article 2. Teaching Force

59110. The superintendent of the school shall have had not less than three years' experience in the art of teaching the blind and shall hold a credential issued by the State Board of Education authorizing him to teach in secondary schools of this state.

59111. The powers and duties of the superintendent are such as are assigned to him by the Superintendent of Public Instruction.

59112. There is hereby created at the California School for the Blind the position of field worker to be appointed by the superintendent of the school with the approval of the Superintendent of Public Instruction. The field worker shall be a member of the teaching staff of the California School for the Blind and shall receive a salary fixed and payable in accordance with law.

The fieldworker shall visit graduates and former pupils of the school in their homes to advise them regarding the extension and continuance of their education, to assist them in securing remunerative employment, to improve their economic condition in all possible ways, and to provide them with preparatory instruction found necessary for a selected occupation. The fieldworker shall be a person who has had special training for such work. Blindness shall not be grounds to disqualify a person for this position.

59113. The Department of Education may employ any person, otherwise qualified, who has retired for service under either the Public Employees' Retirement System or the State Teachers' Retirement System as a substitute in a position requiring certification qualifications at the California School for the Blind; provided, that the total of such service and any service rendered pursuant to Section 23919 shall not exceed 90 teaching days in any one fiscal year.

## Article 3. Pupils

59120. Every blind person resident of this state, of suitable age and capacity, is entitled to an education in the California School for the Blind free of charge.

59121. On or before July 15, the Superintendent of the California School for the Blind shall report in writing to the governing board of each school district of residence the name of each pupil and the number of days attended by each pupil during the fiscal year. For each such pupil in attendance at the California School for the Blind, under the provisions of this chapter, the school district of residence shall annually pay to the Department of Education an amount determined by (1) dividing the income credited to the general fund of the school district from the levy of the district tax rate, exclusive of taxes levied under Sections 15250, 15733, 16090, 42200, and 56811, by the average daily attendance of the school district, and (2) multiplying the quotient obtained by the ratio that the number of days the pupil attended the school for the blind bears to the number of days the school for the blind was in session.

For determining the school district responsible under the provisions of this section for making the payment when the pupil resides in other than a unified school district, pupils 15 years of age or older as of September 1 of each fiscal year shall be considered a resident of the high school district, and pupils 14 years of age or under as of September 1 shall be considered a resident of the elementary district.

The payment shall be made by the Controller withholding from the second principal apportionment of the fiscal year following the year of attendance the amount due on account of the attendance of pupils of the district at the California School for the Blind as reported to the Controller by the Superintendent of Public Instruction except that in no case shall the apportionment to a district be reduced below the amount prescribed by Section 6 of Article IX of the Constitution. The Controller shall transfer the amount withheld to, or in augmentation of, the appropriate Department of Education support appropriation for the support and maintenance of the school for the blind.

59122. If a school district makes a payment in excess of the amount due the department under the provisions of Section 59121, the department shall refund to the district, from the appropriation to which the payment was credited, the amount that is in excess of the amount due.

59123. All pupils in the school shall be maintained at the expense of the state, except as provided in Sections 59121, 59124 to 59128, inclusive, and 59131.

59124. The governing board of each school district of residence shall, from the general fund of the school district, pay for the transportation cost of each pupil of the district in attendance at the California School for the Blind as a day-class pupil.

For determining the school district responsible under the provisions of this section for making the payment when the pupils reside in other than a unified school district, pupils 15 years of age or older as of September 1 of each fiscal year shall be considered residents of the high school district, and pupils 14 years of age or

under as of September 1 shall be considered residents of the elementary district.

59125. If the parent or guardian of any pupil in the school is unable either himself or from the estate of the child to clothe the child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while at the school, or is unable either himself or from the estate of the child to reimburse the Department of Education for expenses incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency, the parent or guardian may apply for a certificate to that effect to the superior court of the county of which the parent or guardian of the child is resident. If the court is satisfied that the parent or guardian either himself or from the estate of the child is unable to pay for any such service, it shall issue a certificate to that effect. The application for the certificate may also be made to the court by the superintendent of the school.

59126. The certificate shall be presented to the superintendent of the school and the superintendent when the certificate shows the parent or guardian of the child is unable either himself or from the estate of the child to clothe the child, or pay for his transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while in school, shall clothe the child and provide the transportation, dental work, eye care, operations, and hospitalization. The expense of the services, or any of them, shall be advanced by the Department of Education out of money appropriated for the support of the school.

59127. All money expended under the authority of any such certificate for clothing and transportation, necessary dental work, eye care, operations and hospitalization, and all money expended by the Department of Education for expenses incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency for which the Department of Education cannot be reimbursed by the parent or guardian of the child as shown by the certificate, constitutes a legal charge against the county from which the certificate is issued. Expenditures for clothing and transportation shall not exceed the sum of three hundred eighty-five dollars (\$385) for the 1974-75 school year, and an amount thereafter which shall be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The State Controller shall determine the amount authorized pursuant to this section for the 1975-76 school year and thereafter.

59128. Upon presentation to the county in which the certificate is issued, of an itemized claim, duly sworn to by the superintendent of the school before an officer authorized to administer oaths, for the expense for clothing, transportation, and other items provided and furnished under the authority of the certificate, or for the reimbursement of the Department of Education, the claim shall be

processed and paid pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code. The amount paid and all reimbursements of the Department of Education under this section shall be credited to the current appropriation for the support and maintenance of the school.

59129. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide the service for the child or to reimburse the Department of Education for expenses incurred by it on providing the service for the child in an emergency, the court shall not issue the certification, but shall according to the nature of the application before it, either order the superintendent to provide the child with the service, or order the parent or guardian either himself or from the estate of the child, as the court determines, to reimburse the Department of Education for expenses incurred by it in providing the service for the child in an emergency.

59130. If the Department of Education is not reimbursed by the parent or guardian personally or from the estate of the child for expenditures made by the superintendent under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the Department of Education either personally or from the estate of the child for expenses incurred by it in providing the service for the child in an emergency the superintendent may sue the parent or guardian, in the name of the state, to recover any money paid out by order of the court or due the Department of Education as reimbursement under an order of the court.

59131. Blind persons not residents of this state may be admitted to the benefits of the school upon paying to the Department of Education the sum of the school year cost for the maintenance, care, and instruction of persons at the school, payable quarterly in advance. The cost of the care, maintenance, and instruction shall be determined by the Department of Education with the approval of the Department of Finance.

#### Article 4. Services and Courses

59140. The Department of Education, in connection with the California School for the Blind, shall establish and maintain a kindergarten service for the care and teaching of children under school age. The department shall prescribe the rules and regulations which shall govern the conduct of the kindergarten service, appoint such teachers as it determines necessary, and fix their salaries.

59141. The Department of Education shall create the position of visiting teacher to blind children of preschool age. With the consent of the parents of any blind child of preschool age it shall be the duties of such visiting teacher to assist and instruct the parents in the early care and training of said child, to train the child in play, and to do everything which will assure the child's physical, mental and social

adjustment to its environment. The Department of Education shall maintain a sufficient number of visiting teachers to adequately serve the needs of parents of preschool blind children in accordance with the known number of such children. In any event the caseload of each visiting teacher shall not exceed a number of clients that can be adequately and fully served.

59142. The Department of Education, in addition to the teaching and education of the blind of suitable age, shall adopt measures and prescribe rules for the giving of vocational training to the pupils at the school, in order that they may be equipped upon their graduation to engage in occupations or industries by which they may become self-supporting. The board shall determine the nature and scope of the vocational training, with the view of best adapting the blind to follow useful and productive pursuits, after the completion of their education.

59143. The Superintendent of Public Instruction may authorize the California School for the Blind to establish and maintain, either independently or in cooperation with the University of California or the Trustees of the California State University and Colleges, teacher training courses for teachers of the blind. The Superintendent of Public Instruction shall establish standards for the admission of persons to the courses, and for the content thereof.

The California School for the Blind may enter into agreements with the Trustees of the California State University and Colleges, the University of California, or any other university or college accredited by the State Board of Education as a teacher training educational institution, to provide practice teaching required for issuance of the credentials authorizing the holder to teach the visually handicapped, the deaf-blind, or provide orientation and mobility instruction. Such agreement may provide a reasonable payment, for services rendered, to teachers of the California School for the Blind who have practice teachers under their direction.

59144. The Superintendent of Public Instruction, in conjunction with the California School for the Blind, shall provide assessment and instructional planning services for individuals who are referred for such services by responsible local agencies under subdivision (b) of Section 53336.

### CHAPTER 3. SCHOOLS FOR NEUROLOGICALLY HANDICAPPED CHILDREN

#### Article 1. Administration

59200. There are three schools for neurologically handicapped children known and designated as Diagnostic School for Neurologically Handicapped Children, Northern California, Diagnostic School for Neurologically Handicapped Children, Central California, and Diagnostic School for Neurologically Handicapped Children, Southern California.

59201. The diagnostic schools for neurologically handicapped children are a part of the school system of the state, except that they derive no revenue from the Public School Fund, and have for their object diagnosis, and the determination of the treatment, and educational program of children with neurological handicaps. These schools provide temporary residence for children, who, by reason of their handicaps, need educational diagnostic services not available in regular public school classes.

59202. The schools are under the administration of the Superintendent of Public Instruction.

59203. The Superintendent of Public Instruction in relation to the diagnostic schools for neurologically handicapped children shall:

- (a) Prescribe rules for the government of the schools.
- (b) Appoint the superintendents and other officers and employees.
- (c) Remove for cause any officer, teacher or employee.
- (d) Fix the compensation of teachers.
- (e) Determine the length of, and the time for, vacations of teachers.
- (f) Contract with the University of California or with other public or private hospitals or schools of medicine for the establishment and maintenance of diagnostic service and treatment centers for neurologically handicapped children.

59204. The Superintendent of Public Instruction, in connection with the diagnostic schools for neurologically handicapped children, shall also:

- (a) Make comprehensive diagnostic evaluations of individuals referred for such service by responsible local agencies under subdivision (b) of Section 56336.
- (b) Provide instructional planning services for individuals evaluated under subdivision (a).
- (c) Provide counseling services for parents, guardians, and families of neurologically handicapped and seriously emotionally disturbed children.
- (d) Conduct experimental assessment projects designed to meet needs of those categories of neurologically handicapped children selected by the Superintendent of Public Instruction.

## Article 2. Teaching Force

59210. The powers and duties of the superintendents of the schools are such as are assigned to them by the Superintendent of Public Instruction.

59211. The Superintendent of Public Instruction may, in cooperation with an accredited college or university, authorize the California schools for neurologically handicapped children to establish and maintain teacher training courses designed to prepare teachers to instruct neurologically handicapped children in special classes in the public school system. The Superintendent of Public

Instruction, in cooperation with an accredited college or university, shall prescribe standards for the admission of persons to the courses, and for the contents of the courses. Courses conducted in the schools shall be counted toward requirements of a credential in the area of the educationally handicapped upon the establishment of such a credential.

The diagnostic schools for neurologically handicapped children may enter into agreements with the Trustees of the California State University and Colleges, the University of California, or any other university or college accredited by the State Board of Education as a teacher training educational institution, to provide practice teaching required for issuance of the credential authorizing the holder to teach the educationally handicapped. Such agreement may provide a reasonable payment, for services rendered, to teachers of the diagnostic schools for neurologically handicapped children who have practice teachers under their direction.

### Article 3. Pupils

59220. Every resident of California less than 21 years of age, of suitable age and capacity, as determined by means of diagnosis at the diagnostic and treatment schools for neurologically handicapped children, is entitled to enrollment in a school for neurologically handicapped children, free of charge.

Children with neurological handicaps, not residents of California, may be admitted to the benefits of the schools upon paying to the Department of Education, quarterly in advance, the actual support cost at the average cost of maintaining pupils in the school for the period in question. This cost shall be determined by the Department of Education with the approval of the Department of Finance.

59221. On or before July 15 of each year, the superintendent of each California diagnostic school for neurologically handicapped children shall report in writing to the governing board of each school district of residence the name of each pupil and the number of days attended by each pupil during the fiscal year. For each such pupil in attendance at a California diagnostic school for neurologically handicapped children, under the provisions of this chapter, the school district of residence shall annually pay to the Department of Education an amount determined by (1) dividing the income credited to the general fund of the school district from the levy of the district tax rate, exclusive of taxes levied under Sections 15250, 15733, 16090, 42200, and 56811, by the average daily attendance of the school district, and (2) multiplying the quotient obtained by the ratio that the number of days the pupil attended the school for the neurologically handicapped bears to the number of days the school for the neurologically handicapped was in session.

For determining the school district responsible under the provisions of this section for making the payment when the pupil resides in other than a unified school district, pupils 15 years of age

or older as of September 1 of each fiscal year shall be considered a resident of the high school district, and pupils 14 years of age or under as of September 1 shall be considered a resident of the elementary district.

The payment shall be made by the Controller withholding from the second principal apportionment of the fiscal year following the year of attendance the amount due on account of the attendance of pupils of the district at the California diagnostic schools for neurologically handicapped children as reported to the Controller by the Superintendent of Public Instruction, except that in no case shall the apportionment to a district be reduced below the amount prescribed by Section 6 of Article IX of the Constitution. The Controller shall transfer the amount withheld to, or in augmentation of, the appropriate Department of Education support appropriation for the support and maintenance of the appropriate school for the neurologically handicapped.

59222. If a school district makes a payment in excess of the amount due the Department of Education under the provisions of Section 59221, the department shall refund to the district, from the appropriation to which the payment was credited, the amount that is in excess of the amounts due.

## PART 33. INSTRUCTIONAL MATERIALS AND TESTING

### CHAPTER 1. INSTRUCTIONAL MATERIALS

#### Article 1. Legislative Intent

60000. It is the intent and purpose of the Legislature in enacting this part to provide for the acquisition of instructional materials for the elementary and secondary schools.

60001. For the purposes of any provision of the California Constitution which requires the adoption of textbooks for use in the elementary schools, the state board shall have the power, subject to the provisions of this division, to adopt one or more separate series of textbooks or instructional materials systems for any of the several courses offered in the elementary schools, or for any combination of such courses. For such purposes the term "elementary schools" shall have the meaning prescribed by Section 60024.

60002. The Legislature hereby recognizes that, because of the common needs and interests of the citizens of this state and the nation, there is a need to establish broad minimum standards and general educational guidelines for the selection of instructional materials for the public schools, but that, because of economic, geographic, physical, political, educational, and social diversity, specific choices about instructional materials need to be made at the local level.

60003. The Legislature further recognizes that by enacting Chapter 1 (commencing with Section 51000) and Chapter 2

(commencing with Section 51200) of Part 28 of this division it gave school district governing boards broad powers to establish courses of study, and that school district governing boards must have the ability to choose instructional materials which are appropriate to their courses of study.

## Article 2. Definitions

60010. For the purpose of this part the definitions set forth in this article shall govern the construction of this part.

60011. "Instructional material" means all materials designed for use by pupils and their teachers as a learning resource and which help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted and may include textbooks, educational materials and tests.

60012. "Basic instructional material" means instructional materials designed for use by pupils as a principal learning resource and which meet in organization and content the basic requirements of the intended course.

60013. "Supplementary instructional materials" means instructional materials designed to serve, but not limited to, one or more of the following purposes, for a given subject, at a given grade level:

(1) To provide more complete coverage of a subject or subjects included in a given course.

(2) To provide for meeting the various learning ability levels of pupils in a given age group or grade level.

(3) To provide for meeting the diverse educational needs of pupils with a language disability in a given age group or grade level.

(4) To provide for meeting the diverse educational needs of pupils reflective of a condition of cultural pluralism.

60014. "Instructional materials system" means a comprehensive collection of related instructional materials which are designed to improve learning in one or more subjects and are so designed that all parts of the system are necessary to produce the results intended.

60015. "Instructional materials set" means a collection of related instructional materials produced and submitted as a set by a single publisher or manufacturer and which are so designed that each part of the set is related to the same subject; however, not all parts of a set shall be necessary to promote the maximum efficiency of pupil learning in that subject. All parts of a set shall have a common educational purpose and methodology, and each part of a set shall be identified, marked, or imprinted with a common title or name.

60016. "Textbook" means a book designed for use by pupils as a source of instructional material, or a teachers edition of the same book.

60017. "Education material" means any audiovisual or manipulative device including, but not limited to films, tapes, flashcards, kits, phonograph records, study prints, graphs, charts and

multimedia systems. Educational materials do not constitute equipment as defined in the California School Accounting Manual.

60018. "Test" means any device used to measure the knowledge or achievement of students.

60019. "State board" means the State Board of Education.

60020. "Commission" means the Curriculum Development and Supplemental Materials Commission.

60021. "District board" means that board of education or governing board of any county, city and county, city or other district which has the duty to provide for the education of the children in its county, city and county, city, or district.

60022. "Governing boards" means the state board and any one or more district boards.

60023. "School official" means any member of any governing board, any city, county, city and county or district superintendent of schools, and any principal, teacher or other employee under his charge.

60024. "Elementary school" means all public schools in which instruction is given through grade 8 or in any one or more of such grades.

60025. "High school" means all public schools other than elementary schools in which instruction is given through grade 12, or in any one or more of such grades.

60026. "Nonpublic school" means a school satisfying the requirements of Section 48222, if such school is exempt from taxation under Section 214 of the Revenue and Taxation Code.

60027. "Learner verification" means the continuous and thorough evaluation of instructional materials for their effectiveness with pupils.

60028. "Curriculum framework" means an outline of the components of a given course of study designed to provide state direction to school districts in the provision of instructional programs.

### Article 3. Requirements, Materials

60040. When adopting instructional materials for use in the schools, governing boards shall include only instructional materials which, in their determination, accurately portray the cultural and racial diversity of our society, including:

(a) The contributions of both men and women in all types of roles, including professional, vocational, and executive roles.

(b) The role and contributions of American Indians, American Negroes, Mexican Americans, Asian Americans, European Americans, and members of other ethnic and cultural groups to the total development of California and the United States.

(c) The role and contributions of the entrepreneur and labor in the total development of California and the United States.

60041. When adopting instructional materials for use in the

schools, governing boards shall include only instructional materials which accurately portray, whenever appropriate:

(a) Man's place in ecological systems and the necessity for the protection of our environment.

(b) The effects on the human system of the use of tobacco, alcohol, narcotics and restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

60042. When adopting instructional materials for use in the schools, governing boards shall require such materials as they deem necessary and proper to encourage thrift, fire prevention and the humane treatment of animals and people.

60043. When adopting instructional materials for use in the schools, the governing board shall require, when appropriate to the comprehension of pupils, that textbooks for social science, history or civics classes contain the Declaration of Independence and the Constitution of the United States.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

60043. When adopting instructional materials for use in the schools governing boards shall require, when appropriate to the comprehension of pupils, that textbooks for social science, history or civics classes contain the Declaration of Independence and the Constitution of the United States

60044. No instructional materials shall be adopted by any governing board for use in the schools which, in its determination, contains:

(a) Any matter reflecting adversely upon persons because of their race, color, creed, national origin, ancestry, sex or occupation.

(b) Any sectarian or denominational doctrine or propaganda contrary to law.

60045. All instructional materials adopted by any governing board for use in the schools shall be, to the satisfaction of the governing board, accurate, objective, and current and suited to the needs and comprehension of pupils at their respective grade levels.

60046. Any governing board may conduct an investigation of the compliance of any instructional materials which it adopts with the requirements of this article.

60047. In the event that after the good faith acquisition of instructional materials by a governing board, the instructional materials are found to be in violation of this article and the governing board is unable to acquire other instructional materials which meet the requirements of this article in time for them to be used when the acquired materials were planned to be used, the governing board may use the acquired materials but only for that academic year.

#### Article 4. Requirements, Publishers and Manufacturers

60060. Every publisher or manufacturer of instructional materials offered for adoption or sale in California shall comply with

all the requirements and provisions of this part.

60061. A publisher or manufacturer shall:

(a) Furnish the instructional materials offered by him at a price in the State of California which, including all costs of transportation to that place, shall not exceed the lowest price at which the publisher offers said instructional materials for adoption or sale to any state or school district in the United States.

(b) Automatically reduce the price of said instructional materials to any governing board to the extent that reductions are made elsewhere in the United States.

(c) Provide any instructional materials free of charge in the State of California to the same extent as that received by any state or school district in the United States.

(d) Guarantee that all copies of any instructional materials sold in California shall be at least equal in quality to the copies of such instructional materials that are sold elsewhere in the United States, and shall be kept revised, free from all errors, and up to date as may be required by the state board.

(e) Not in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in instructional materials, and that he will not enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of instructional materials for use in the State of California.

(f) Maintain an office and depository in the State of California or arrange with an independently owned and operated depository in the State of California to receive and fill orders for instructional materials.

For purposes of the preceding paragraph of this subdivision, "instructional materials" shall mean textbooks, or instructional materials systems or instructional materials sets which include textbooks.

For purposes of textbook purchases by governing boards pursuant to subdivision (b) of Section 60264 and Section 60401, the provisions of this subdivision shall apply to every publisher or manufacturer except one whose total orders for textbooks from all governing boards in California under any section of this division are or will be, for the particular school year, less than 1,000 copies of any single title or less than 10,000 copies of multiple titles.

(g) Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, be liable to the governing board in the amount of three times the total sum which the publisher or manufacturer was paid in excess of the price required under subdivisions (a) and (b) and (e), and in the amount of three times the total value of the instructional materials and services which the governing board is entitled to receive free of charge under subdivision (c).

60062. The provisions of Section 60061 shall apply to the purchase of instructional materials under Sections 18132 and 18171.

60063. Any governing board shall order any publisher or

manufacturer who violates any provision of this division to cease to offer or sell any instructional materials to that governing board. If such an order is made, it shall be unlawful for such publisher or manufacturer to sell instructional materials to that governing board until such publisher or manufacturer has demonstrated, to the governing board which made such order, that it is no longer violating the specified provision of this part.

#### Article 5. Prohibited Acts

60070. No school official shall require any pupil, except pupils in classes for adults to purchase any instructional material for the pupils' use in the school.

60071. No publisher or manufacturer of instructional materials, nor any of his representatives, shall offer or give any emolument, money, or other valuable thing, or any inducement, to any school official to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

60072. No school official shall accept any emolument, money or other valuable thing, or any inducement to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

60073. Any publisher or manufacturer of instructional materials or his representative, or any school official who violates any of the provisions of this article is guilty of a misdemeanor. Any school official who violates any of the provisions of this article shall, in addition to any other penalty, be removed from his official position.

60074. Nothing in this article shall be construed to prevent any publisher, manufacturer, or agent from supplying for purposes of examination necessary sample copies of instructional materials to any school official.

60075. Nothing in this article shall be construed to prevent a school official from receiving sample copies of instructional materials.

60076. Nothing contained in this article shall be construed to prohibit or restrict a school official from receiving royalties or other compensation from the publisher or manufacturer of instructional materials written, designed, or prepared by such school official, and adopted or purchased by any governing board, other than compensation paid as commission to the school official for negotiating sales to governing boards. No district shall have or claim the right to receive any such royalty or other compensation due to any school official employed by the district unless the instructional material was written or prepared during the normal schoolday during which the school official is required by the district to be on duty.

## Article 6. Reports

60090. Each district board shall make reports, whenever required, directly to the Superintendent of Public Instruction, concerning the instructional materials used in its schools.

## Article 7. Application of Part

60100. No provision of this part shall be construed as requiring the district board of any district to provide instructional materials, free of charge, or otherwise, to any adult enrolled in a class for adults, nor shall any of the provisions of this part be construed as applicable to instructional materials required or authorized to be used by adults in classes for adults.

60101. No provision of this part shall be construed as prohibiting any district board, or any county library, from ordering and purchasing from their own funds such instructional materials as they may require, including state listed materials at a price equal to that computed pursuant to Section 60243.

60102. If any provision of this part, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

## Article 8. Instructional Materials on Drug Education

60110. It is the intent of the Legislature that the State Board of Education give high priority to the adoption of instructional materials on drug education for classroom use by teachers and pupils. Such materials shall be designed to assist the teacher in presenting instruction on drug education and to meet the needs of pupils at their respective grade levels. Such materials shall be accurate, objective, and current.

60111. The Department of Education shall establish an information center of current drug education materials which may be used by school districts and teachers for instruction on drug education. The information center shall include, but not be limited to, all the following: current state and federal drug laws; samples of effective courses of study, curriculum guides, teaching materials, reference materials, reports of current and school district policies related to drug education.

## CHAPTER 2. ELEMENTARY SCHOOL MATERIALS

### Article 1. Selection and Adoption

60200. The state board shall biennially adopt a list of textbooks and instructional materials for use in the elementary school grades

subject to the following provisions:

(a) The state board shall adopt not less than five but not more than 15 of any of the following, per subject, per grade: (1) instructional materials, (2) instructional materials systems, (3) instructional materials sets, (4) a combination of instructional materials, instructional materials systems, and instructional materials sets. The state board may designate each instructional material, instructional material system, instructional material set, or any combination thereof, as basic or supplementary. The state board shall not adopt more than two instructional materials sets per subject.

(b) Fewer than five instructional materials, instructional materials systems, and instructional materials sets may be adopted per subject, per grade if publishers and manufacturers of instructional materials do not submit a sufficient number of educationally useful materials or systems, as determined by the state board; however, in no event shall the state board adopt less than two basic instructional materials systems per subject, per grade.

(c) In the event that a district board establishes to the satisfaction of the state board that the adoption of basic instructional materials does not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district board to use its instructional materials credit to purchase, through the Department of Education, additional instructional materials specified by the state board in accordance with standards and procedures established by the state board.

(d) The state board shall biennially adopt lists of instructional materials for the following subjects: (1) language arts, (2) arithmetic, (3) social sciences, (4) reading, (5) science, and (6) any other subject in which the board shall determine the need and desirability for instructional materials to promote the maximum efficiency of pupil learning. The state board may establish a cycle for adoptions by designating subjects to be adopted in even-numbered years and subjects to be adopted in odd-numbered years.

(e) The state board shall, at the time of the adoption, determine the date upon which state-adopted instructional materials shall be available for use by district boards.

(f) The state board may adopt instructional materials, instructional materials systems, and instructional materials sets without designating a grade or subject and the state board may designate more than one grade or subject whenever the state board determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on a single grade or single subject list or may be placed on separate lists including other materials with similar grade or subject designations; however, all materials so designated shall be adopted subject to the numerical limitations of subdivision (a).

60201. In adopting the biennial list of instructional material the state board may do any one or more of the following:

(a) Retain any instructional materials from the previous biennial list, or any instructional materials adopted by it prior to October 1, 1972, and make any adjustment in prices based on information provided pursuant to Section 60223.

(b) Delete from the previous biennial list any instructional materials adopted by it prior to October 1, 1972, or any material which it determines is obsolete pursuant to Section 60500, or which received no order from any district board during the previous biennial period.

(c) Add instructional materials not previously submitted for adoption, or materials previously submitted which have been revised to comply with any recommendations of the state board.

60202. Before final adoption of any instructional materials not currently listed, the state board shall make any textbooks proposed for adoption available for public inspection for 30 days at display centers designated by county superintendents of schools. There shall be at least five display centers in Los Angeles County, three each in Orange County and San Diego County, and two each in Alameda County and Santa Clara County.

60203. The state board shall give the commission a public hearing before making any adoption of instructional materials for use in the elementary schools of the state.

60204. The commission shall:

(a) Recommend curriculum frameworks to the state board.

(b) Develop criteria for evaluating instructional materials submitted for adoption so that the materials adopted shall adequately cover the subjects in the indicated grade or grades and which comply with the provisions of Article 3 (commencing with Section 60040 of Chapter 1 of this part. Such criteria shall be public information and shall be provided in written or printed form to any person requesting such information.

(c) Study and evaluate all instructional materials submitted for adoption.

(d) Recommend to the state board instructional materials which it approves for adoption.

60205. The commission may, in order to fulfill its duties pursuant to Section 60204, appoint task forces or committees of subject matter experts to assist and advise them. Each task force or committee appointed by the commission shall include classroom teachers as defined in Section 33150 and representatives of the various ethnic groups and of the various types of school districts. Accurate records of the advice and recommendations of each task force or committee member shall be maintained by the commission, and made available to the state board at its request.

## Article 2. Duties of Publishers and Manufacturers

60220. All publishers and manufacturers submitting instructional materials for adoption by the state board shall comply with the

provisions of Article 1 (commencing with Section 60000) to Article 7 (commencing with Section 60100), inclusive, of this part.

60221. Publishers and manufacturers submitting instructional materials for adoption shall provide sample copies of such materials in quantities to be determined by the state board.

60222. Publishers and manufacturers shall, at a time designated by the commission, submit the following information:

(a) Detailed specifications of the physical characteristics of such material. Such specifications shall be complied with by the publisher or manufacturer if the material is adopted and purchased in completed form by the state board or any district board. If the material is adopted under a lease contract, the Department of General Services shall follow comparable specifications in manufacturing the material. Changes in specifications may be made when approved by the state board and the publisher or manufacturer.

(b) A price schedule for the sale of completed materials to the state, including all costs of transportation pursuant to subdivision (a) of Section 60061, a statement of the cost to the State of California of purchasing a single unit of each item of instructional material, and any discounts for quantity purchases and any discounts for payment within any specified period of time.

(c) A price schedule for the lease and/or purchase by the state of films, dies, and other materials to be used by the state to manufacture such materials.

(d) A price schedule of royalty costs to be paid to the publisher or manufacturer whenever the state manufactures and distributes to school districts any such materials.

60223. Publishers and manufacturers may submit revisions to price schedules submitted pursuant to Section 60222 for any materials being considered for relisting pursuant to subdivision (a) of Section 60201.

60224. Publishers and manufacturers shall make available for purchase by any governing board any diagnostic, criterion-referenced, or other tests that they may develop.

60225. At the request of any district board and with the approval of the county superintendent of schools, publishers and manufacturers or other qualified persons or organizations shall provide in-service training in the use of instructional materials produced by them. The in-service training shall be provided on terms agreed to by the publisher or manufacturer or other qualified person or organization and may be paid for by the district board. If the publisher or manufacturer or other qualified person or organization does not provide the in-service training at no cost to the district board, and the district board does not agree to pay for the in-service training, no penalties shall be imposed upon the publisher or manufacturer or other qualified person or organization.

60226. Publishers and manufacturers shall, in accordance with rules and regulations adopted by the state board, develop plans to

improve the quality and reliability of instructional materials through learner verification. Governing boards shall be encouraged to permit publishers and manufacturers to have limited access to classrooms for necessary testing and observation. Publishers and manufacturers shall provide copies of test results and evaluations made as part of learner verification at the request of any governing board.

### Article 3. State Instructional Materials Fund

60240. There is hereby created the State Instructional Materials Fund, effective July 1, 1973. The fund shall be a means of annually funding the acquisition of instructional materials as required by the Constitution of the State of California. All money in the fund is continuously appropriated to the Department of Education without regard to fiscal years for carrying out the purposes of this division. It is the intent of the Legislature that the fund shall provide for flexibility of instructional materials.

60241. The fund shall be administered by the Department of Education under policies established by the state board. The state board shall encumber part of the fund to:

(a) Pay for the cost of royalties, warehousing, and shipping for those textbooks in the state textbook warehouse as of July 1, 1973, and adopted by the state board prior to March 7, 1973.

(b) Pay for the costs of instructional materials to be loaned to nonpublic school pupils pursuant to Section 60315.

(c) Pay for the costs of braille and large print textbooks to be furnished for visually handicapped pupils pursuant to Sections 60312 and 60313.

(d) Pay for the costs of warehousing and transporting textbooks printed by the Department of General Services. Such costs shall not exceed 10 percent of the cost of each textbook printed by the Department of General Services.

(e) Establish, commencing with the 1974-75 fiscal year, a reserve account, of not to exceed two hundred thousand dollars (\$200,000) to pay for the cost of:

(1) Acquisition of instructional materials, including those ordered for purchase by persons and entities pursuant to subdivisions (a) and (b) of Section 60310.

(2) Replacement of instructional materials obtained by a school district with its credit, which are lost or destroyed by reason of fire, theft, natural disaster, or vandalism.

60242. After the application of Section 60241, the state board shall encumber the balance of the fund for the purpose of:

(a) Establishing a credit for each district board with which instructional materials adopted by the state board may be ordered.

(b) Establishing a cash allotment in an amount determined by the state board for use in purchasing instructional materials from any source, or for the purchase of tests or in-service training pursuant to Sections 60224 and 60225.

(c) Obtaining instructional materials in subsequent fiscal years.

In establishing the credit and cash allotments for each school district, the board may take into consideration estimated increases or decreases in average daily attendance for the year in which the instructional materials are to be used.

60243. District boards ordering instructional materials from lists adopted by the state board shall have deducted from their credit a unit cost based on the information provided by publishers or manufacturers pursuant to subdivision (b) of Section 60222. In the event that the state board arranges for the manufacture of such instructional materials at a lower actual cost the savings shall be deposited in the State Instructional Materials Fund, to be used for additional textbook credit in subsequent years.

60244. Where the adoption period of any adoption made prior to October 1, 1972, has expired after such date but prior to the first biennial adoption to be made for that subject pursuant to the statutes enacted at the 1972 Regular Session of the Legislature, the state board may extend the prior adoption period for such books for any period up to but not beyond the date determined by the state board pursuant to subdivision (e) of Section 60200 for the first biennial adoption in that subject. Acquisition and distribution of books under an extended adoption shall be in accordance with the law and agreements with publishers in effect at the time of original adoption except that:

(a) No minimum order or ratio of textbooks shall be required of district governing boards, except that each district board shall provide sufficient quantities of the state-adopted textbooks to meet the needs of their pupils and the requirements of Section 7.5 of Article IX of the California Constitution.

(b) The unit cost price of books ordered for use after July 1, 1974, whether by purchase from the publisher or printed by the Department of General Services shall be deducted from the credit of the district board ordering such books.

(c) In the event that the books under an extended adoption are found to be in violation of the requirements in Article 3 (commencing with Section 60040) of Chapter 1 of this part, and the governing board is unable to acquire other books which meet the requirements of that article in time for them to be used when the acquired books were planned to be used, the governing board may use the acquired books but only for that academic year.

This section shall remain in effect until July 1, 1977, and on that date is repealed.

60245. The fiscal yearend unexpended balance of any cash allotment or credit of any district board shall be separately encumbered for the district board and shall be separately carried over into the subsequent fiscal year for their respective uses by the district board.

60246. The State Controller shall during each fiscal year, commencing with fiscal year 1973-1974, transfer from the General

Fund of the state to the State Instructional Materials Fund, an amount of seven dollars (\$7) per pupil in average daily attendance in the public and nonpublic elementary schools during the preceding fiscal year, as certified by the Superintendent of Public Instruction, except that this amount shall be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. For purposes of this section, average daily attendance in the nonpublic schools shall be the enrollment reported pursuant to Section 33190.

60247. This article shall become operative on July 1, 1973. This article shall remain in effect only until June 30, 1977, and as of that date is repealed.

#### Article 4. Local Ordering Procedures

60260. It is the intent of the Legislature in adopting this article that district boards order instructional materials which meet the needs of pupils in their district, and which relate to their courses of study as adopted pursuant to law.

60261. District boards shall determine the necessary quantities and distribution pattern of instructional materials to pupils. No minimum order or ratio of materials shall be required, except that each district board shall provide sufficient quantities of state-adopted textbooks and instructional materials to meet the needs of their pupils and the requirements of Section 7.5 of Article IX of the California Constitution. District boards shall order all parts of any instructional material system which they order, except that, upon furnishing evidence to show that it already possesses any part or parts of a system, a district board shall not be required to order that quantity of those parts of the system. District boards may order any quantity of any part of any instructional materials set.

60262. District boards shall provide for substantial teacher involvement and shall promote the involvement of parents and other members of the community in selecting instructional materials.

60263. District boards shall order state-adopted textbooks and instructional materials on forms prescribed by the Department of Education. Such forms shall include, or be accompanied by, information concerning the grade or grades and subject or subjects for which each instructional material is intended, and the unit cost of such material, as computed pursuant to Section 60243, which will be deducted from the credit of the district when ordered. District boards may order instructional materials from lists adopted by the state board without regard to the subject or grade designated by the state board and may use such instructional materials in any manner which will promote the maximum efficiency of pupil learning.

60264. (a) All district orders for state-adopted instructional materials shall be forwarded as directed by the Superintendent of

Public Instruction for procurement of such materials in the most economical and timely manner pursuant to Article 5 (commencing with Section 60280) of this chapter. However, in cases where the district does not qualify as a city school district and is an elementary district with fewer than 901 average daily attendance or a unified district with fewer than 1,501 average daily attendance, the county superintendent of schools shall approve the orders for instructional materials by such districts before forwarding as directed by the Superintendent of Public Instruction.

(b) All district orders for instructional materials not adopted by the state shall be placed directly with the publisher or manufacturer at any of its offices in the State of California or at any publishers' or manufacturers' depository in the State of California, except that all district orders for instructional materials other than textbooks, and other than instructional materials systems and instructional materials sets which include textbooks, may be placed directly with the publisher or manufacturer. The provisions of this paragraph with respect to the purchase of textbooks are subject to the numerical limitations of subdivision (f) of Section 60061.

60265. After any instructional material, including any state-adopted textbook, has been placed in use by a district board subsequent to a biennial adoption, it shall be retained in use by the district for a period of not less than two years nor more than six years after the date of its first use.

Any textbook which has been placed in use by a district board prior to July 1, 1974, pursuant to a state board adoption made prior to August 15, 1972, may be retained in use by the district up to but not beyond the date determined by the state board pursuant to subdivision (e) of Section 60200 for the second biennial adoption in that particular subject.

However, the Superintendent of Public Instruction may exempt materials from these requirements whenever the district board demonstrates that the continued use of the material will contribute to the maximum efficiency of pupil learning.

#### Article 5. State Procurement

60280. The state board shall cause to be acquired and distributed any instructional materials ordered by district boards pursuant to Article 4 (commencing with Section 60260) of this chapter.

60281. The state board may acquire instructional materials included in any list adopted by the board for use in the elementary schools, by any one or more of the following means determined by the board to be in the best interests of the state:

(a) Purchase them directly from the publisher or manufacturer at any of its offices in the State of California or from any publishers' or manufacturers' depository in the State of California, except that instructional materials other than textbooks, and other than instructional materials systems and instructional materials sets which

include textbooks, may be purchased directly from the publisher or manufacturer.

(b) Compile them, or cause them to be compiled and manufacture them.

(c) Lease films, dies, maps, engravings, or copyright or patented matter for use in manufacturing them.

(d) Contract for, or lease copyrights for use in compiling, printing, or publishing them.

(e) Provide for either the payment of royalties or for the leasing of films or both, or for making the whole or any part of the material and do any or all things that may be necessary for the purpose of procuring materials for use in the elementary schools.

(f) Arrange for the printing of textbooks by the Department of General Services.

(g) Produce or contract for the production of textbooks in braille, large print, recordings or other media for the use of handicapped minors, including the visually handicapped.

For the purposes of acquiring the various parts of any instructional materials system adopted pursuant to Section 60200, the state board may use any one or combination of the foregoing means in order to acquire all or any part of the instructional materials system.

60282. Each contract executed for the procurement of instructional materials shall include the right of the state to transcribe and reproduce the material in braille, large print, recordings or other media for the use of handicapped minors, including the visually handicapped, unable to use the book in conventional print and form. Such right shall include those corrections, revisions and other modifications as may be necessary.

60283. Each contract executed pursuant to Section 60282 shall specify that the royalty, if required, for such materials shall be that specified in the contract for the regular materials designed for nonhandicapped pupils. Any contract for the purchase of instructional materials shall establish a royalty, if required, for permission to transcribe or reproduce in braille, large print, recordings or other media for use of handicapped minors, including the visually handicapped.

60284. The cost of instructional materials acquired in any manner pursuant to Section 60281 shall be paid out of the State Instructional Materials Fund.

60285. The state board, in order to procure textbooks, shall tabulate all orders for each textbook title received from school districts and nonpublic school pupils. The Department of General Services shall select from the tabulation those titles which can be manufactured by that department at a unit cost lower than that specified in the price schedule submitted by the publisher or manufacturer pursuant to subdivision (b) of Section 60222 and which that department can complete manufacture of in time to permit delivery to the school districts and nonpublic school pupils prior to the opening of school in the year in which the textbooks are to be

used.

60286. All textbooks not printed pursuant to Section 60285 and all other instructional materials shall be obtained by the state board pursuant to Section 60281.

60287. Subject to the approval of the state board or a representative of the state board appointed to supervise the work, the Department of General Services shall have supervision of all the mechanical work connected with the printing of such textbooks as may be compiled and adopted. The Department of General Services, after printing and binding the books, shall deliver them to the Superintendent of Public Instruction.

60288. The Department of General Services shall receive payment on the approval of the items of cost by the state board or its duly authorized agent.

60289. The amount fixed for royalty and costs of films or copyright or patented matter in favor of any company, or individual, shall be presented by the Superintendent of Public Instruction to the state board for its approval. Claims shall be paid quarterly, in the same manner as other claims upon the State Treasury.

60290. The Department of General Services shall furnish one copy of a cost-finding report showing items of work and the materials and the exact cost of each item for each of the lot of books, to the state board.

60291. On receiving a copy of the cost-finding report and the estimated cost of the publishing of any book, the state board shall determine and fix the cost price of the books. The cost price shall be determined by adding: (a) the cost of manufacture, and (b) the contract price to be paid as royalty or for the use of films, maps, engravings, or copyrighted or patented matter.

60292. The cost price shall be deemed to be the whole cost of producing the material at Sacramento.

60293. The Department of General Services shall on the first day of each month furnish to the state board a detailed statement showing the name and number of books printed and bound by it during the preceding month, and the number in course of being printed and bound.

60294. The Superintendent of Public Instruction shall arrange for the warehousing and shipping of all instructional materials printed by the Department of General Services in the most economical and timely manner. All other state-adopted instructional materials shall be warehoused and shipped pursuant to subdivision (f) of Section 60061.

60295. The Superintendent of Public Instruction shall arrange for the redistribution of surplus instructional materials to districts reporting insufficient quantities of such materials.

## Article 6. Other Uses

60310. The following individuals or organizations may order instructional materials from lists adopted by the state board:

- (a) The head of any state institution offering instruction in the elementary grades, or giving instruction in the teaching of elementary subjects.
- (b) Governing boards or nonpublic schools.
- (c) Individuals for use only in California.

Such materials shall be purchased at the unit cost determined pursuant to Section 60243.

60311. The Superintendent of Public Instruction shall keep an accurate account of the amount of money received from the sale of instructional materials and report to the Controller in accordance with provisions of Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of Title 2 of the Government Code. The amount of money collected therefor shall be paid into the Treasury to the credit of the State Instructional Materials Fund.

60312. The state board shall make available copies of adopted textbooks in large print for pupils enrolled in the elementary schools whose visual acuity is 20/70 or less or who have other visual impairment making the use of such textbooks necessary. The state board shall make available adopted textbooks in braille characters for pupils enrolled in elementary schools whose corrected visual acuity is 20/200 or less.

60313. The Superintendent of Public Instruction shall establish and maintain a central clearinghouse-depository and duplication center for specialized textbooks, reference books, recordings, study materials, tangible apparatus, equipment and other similar items for the use of visually handicapped students enrolled in the public schools of California who may require their use as shall be determined by the state board.

Such instructional materials in specialized media shall be available to other handicapped minors enrolled in the public schools of California who are unable to benefit from the use of conventional print copies of textbooks, reference books, and other study materials in a manner determined by the state board.

The specialized textbooks, reference books, recordings, study materials, tangible apparatus, equipment and other similar items shall be available for use by visually handicapped students enrolled in the public community colleges, California State University and Colleges, and the University of California.

60314. The Superintendent of Public Instruction shall loan to pupils entitled to attend the public schools of California, but in attendance at a school other than a public school under the provisions of Section 48222, the items specified in Section 60313, without cost to the pupils or to the nonpublic school which they attend.

60315. The Superintendent of Public Instruction shall lend to

pupils entitled to attend the public elementary schools of the district, but in attendance at a school other than a public school under the provisions of Section 48222, instructional materials adopted by the state board for use in the public elementary schools. No charge shall be made to any pupil for the use of such adopted materials.

Materials shall be loaned pursuant to this section only after, and to the same extent that, materials are made available to students in attendance in public elementary schools. However, no cash allotment may be made to any nonpublic school.

Materials shall be loaned for the use of nonpublic elementary school students after the nonpublic school student certifies to the State Superintendent of Public Instruction that such materials are desired and will be used in a nonpublic elementary school by the nonpublic elementary school student.

### CHAPTER 3. HIGH SCHOOL TEXTBOOKS

#### Article 1. Adoption and Purchase

60400. The district board of each district maintaining one or more high schools shall adopt textbooks for use in the high schools under its control. Only textbooks of those publishers who comply with the requirements of Article 3 (commencing with Section 60040) and Article 4 (commencing with Section 60060) of Chapter 1 of this part and of Section 60226 may be adopted by the district board.

60401. The state board shall designate the kinds of books which shall be classified as textbooks for the purposes of this chapter. All textbooks and instructional materials systems and instructional materials sets which include textbooks, shall be purchased directly from the publisher or manufacturer at any of its offices in the State of California or from any publishers' or manufacturers' depository in the State of California. The provision of the preceding sentence, with respect to the purchase of textbooks, is subject to the numerical limitations of subdivision (f) of Section 60061. Instructional materials not classified as textbooks, and instructional materials sets or instructional materials systems not including textbooks, may be purchased by district boards without reference to the provisions of this chapter.

60402. The textbooks adopted shall be put into use in the district not later than the school year next following their adoption.

60403. After any textbook has been adopted by the district board and placed in use, it shall be retained in use for a period of not less than three years after the date of its adoption, as shown by the official records of the district board.

60404. The clerk, secretary, or other person named by the district board for the purpose shall purchase textbooks on order of the district board of the high school district and shall examine the books when received. If they are found to be correct and in accordance with the order, a warrant shall be drawn for the proper amount,

including the cost of transporting the textbooks, against any fund of the high school district available for the purpose and remitted to the publisher within 30 days after receipt of the books.

## Article 2. Furnishing Textbooks to Pupils

60410. The district board of each high school district may fix a charge not to exceed the cost of the books to the high school district for books furnished pupils in classes for adults. In lieu of fixing such charge, the board may lend books to such pupils and require the making of deposits by the pupils, the amount of deposit made by a pupil to be refunded to him upon the return by him of the books lent him in good condition, reasonable wear and tear excepted.

60411. The district board of each high school district shall purchase textbooks and may purchase supplementary books for the use of pupils enrolled in the high schools of the district. The textbooks and supplementary books shall at all times remain the property of the district, and shall be supplied to the pupils for use without charge.

60412. The district board of each high school district shall make all necessary provisions and arrangements to place the books purchased within easy reach and accessible for the use of all the pupils in the schools under its control.

60413. The district board of a high school district may at the end of any school term sell textbooks and supplementary books owned by the district to pupils of the district at prices which shall not exceed the actual value of the textbooks and supplementary books. The district board shall not require pupils of the district to purchase textbooks or supplementary books offered for sale by the board.

The proceeds of the sales shall be placed in the county treasury to the credit of the general fund of the school district.

60414. The district board of a high school district may purchase textbooks for the use of students residing in the district but attending a public high school in an adjoining state which does not furnish textbooks free of charge. Such textbooks shall remain the property of the district in which the students reside and shall be issued to such students at the discretion of the district board of that district.

## Article 3. Disposal of Old Textbooks

60420. The district board of a district maintaining one or more high schools may provide for the disposition of high school textbooks that have been declared obsolete by the district board, in the manner provided in Section 60510, except that the manner of disposal stipulated in Section 60510 shall not preclude the district board from selling high school textbooks pursuant to Section 60413 nor from selling on the secondhand market high school textbooks that are in fit condition to use, and may provide for the disposition of high school textbooks that have been determined by the board to be unusable for educational purposes in the manner provided in Section 60530.

## CHAPTER 4. OBSOLETE MATERIALS

## Article 1. Determination of Obsolescence

60500. For the purposes of this chapter, governing boards shall adopt rules, regulations and procedures for prescribing standards for determining when instructional materials adopted by them and either loaned by them or in their possession are obsolete, and if such materials are usable or unusable for educational purposes.

## Article 2. Donation or Sale

60510. The state board, any district board which employs a superintendent of schools, and other school districts with the approval of the county superintendent of schools, may dispose of surplus or undistributed obsolete instructional materials in its possession which are usable for educational purposes in any of the following ways:

(a) By donation to any governing board, county free library or other state institution.

(b) By donation to any public agency or institution of any territory or possession of the United States, or the government of any country which formerly was a territory or possession of the United States.

(c) By donation to any nonprofit charitable organization.

(d) By donation to children or adults in the State of California, or foreign countries for the purpose of increasing the general literacy of the people.

(e) By sale for a nominal price for use within the State of California to any organization which agrees to use such materials solely for educational purposes.

60511. Any organization, agency or institution receiving obsolete instructional materials under the provisions of this article must certify to the governing board that it agrees to use the materials for educational purposes and agrees to make no charge of any kind to the persons to whom the organization gives or lends such materials.

60512. In order to ship the obsolete instructional materials to recipients named in Section 60510, governing boards may utilize funds from the State Instructional Materials Fund, in any instance in which the board determines that the cost of shipping will be lower than the estimated cost of storing or otherwise disposing of the obsolete instructional materials involved.

60513. The state board shall pay the publisher or manufacturer the royalties agreed to pursuant to subdivision (e) of Section 60281 for any instructional material that the state board designates as obsolete, but which it provides to district boards that have previously ordered that instructional material.

### Article 3. Disposition of Sale Proceeds

60520. Any money received by the state board from sale of obsolete instructional materials pursuant to the provisions of this chapter shall be deposited in the State Instructional Materials Fund.

60521. Any money received by a district board from the sale of obsolete instructional materials pursuant to the provisions of this chapter shall be deposited in any such fund of the school district as the district board prescribes and shall be used for school district purposes.

### Article 4. Destruction

60530. The state board, any district board which employs a superintendent of schools, and other school districts with the approval of the county superintendent of schools may dispose of unusable surplus or undistributed obsolete instructional materials, or such materials which are usable but cannot be distributed pursuant to Section 60510 in any of the following ways:

(a) Mutilated as not to be salable as instructional materials and sold for scrap or for use in the manufacture of paper pulp or other substances at the highest price that can be obtained.

(b) Destroyed by any economical means, provided that no instructional material shall be destroyed until 30 days after the governing board has given notice to all persons who have filed a request for such notice.

## CHAPTER 5. SCHOOL TESTING PROGRAMS

### Article 1. General Provisions

60600. This chapter may be cited as the California School Testing Act of 1969.

60601. It is the intent of the Legislature in enacting this chapter to determine the effectiveness of school districts and schools in assisting pupils to master the fundamental educational skills toward which instruction is directed. The program of statewide testing shall provide the public, the Legislature, and school districts evaluative information regarding the various levels of proficiency achieved by different groups of pupils of varying socioeconomic backgrounds, so that the Legislature and individual school districts may allocate educational resources in a manner to assure the maximum educational opportunity for all pupils. The program of statewide testing shall identify unusual success or failure and the factors which appear to be responsible, so that appropriate action may be taken at the district and state level to obtain the highest quality education for all public school pupils.

60602. As used in this chapter:

(a) "Achievement test" means any standardized test which

measures or attempts to measure the level of performance which a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical performance test" means any test which measures or attempts to measure the physical fitness of a pupil.

(c) "Testing program" means the systematic achievement testing of all pupils in grades 6 and 12, and the physical performance testing of all pupils in any three grades designated by the State Board of Education, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects which involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects which require the integration of factual matter, logical analysis, the solution by the student of posed problems, and the communication of ideas, including, but not limited to, literature, history, advanced mathematics, and science.

60603. The State Board of Education shall:

(a) Require a testing program in all school districts.

(b) Require the Department of Education to submit and recommend achievement tests to the State Board of Education for approval and adoption. The adopted tests shall be printed or purchased and distributed to the various school districts in the state by the Department of Education.

(c) The State Board of Education shall develop a testing method that will obtain an accurate estimate of statewide performance, school district performance, and school performance of pupils in grades 6 and 12, in basic skills courses.

Under such a testing method, the Department of Education shall annually require that each district administer a statewide test to all pupils in grades 6 and 12. The department shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all the test objectives, goals, or categories of items on the entire test.

The procedure required by this section shall be implemented not later than the 1975-76 school year.

(d) Designate the physical performance test to be used during the ensuing school year.

(e) Adopt regulations for the conduct and administration of the testing program.

60604. The State Board of Education may develop, publish, and administer tests of its own devising, and the board may utilize the expert services of any persons or groups of persons in public or private employment.

60605. The governing board of each district shall, in accordance with the rules and regulations of the State Board of Education, conduct a testing program within the district. The governing board may also administer other tests.

60606. No group test directed to ascertaining the intelligence quotient of a pupil, except intelligence tests administered on an individual basis for the purposes of placement in special education programs, shall be given to any elementary or secondary pupil who has come to the United States for the first time from a foreign country in which English is not the primary language until such student has resided in the United States for two years.

60607. The governing board of each school district shall submit all answer sheets for the achievement tests administered pursuant to this article on a per-school basis to the Department of Education for scoring.

The districtwide results of the testing program, but not the score or relative position of individual pupils, shall be reported to the governing board of the district at least once a year at a regularly scheduled meeting.

60608. During either the month of March, April, or May, the governing board of each school district maintaining any grade designated by the State Board of Education pursuant to subdivision (c) of Section 60602 shall administer to each pupil in those grades the physical performance test designated by the State Board of Education. Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

Upon request of the Department of Education, a school district shall submit to the department at least once every two years the results of its physical performance testing.

60609. At the request of the State Board of Education, and in accordance with rules and regulations which the board may adopt, each county superintendent of schools shall cooperate with and give assistance to school districts under his jurisdiction in carrying out the testing programs of such districts and other duties imposed on school districts by this chapter.

60610. With the exception of physical performance tests, no city, county, city and county, or district superintendent of schools or any principal or teacher of any elementary or secondary school under his charge shall carry on any program of specific preparation of the pupils within the district for the testing program as such or the particular test used therein.

60611. No provision of this chapter or Chapter 8 (commencing with Section 52200) of Part 28 of this division shall be construed to mean, or represented to require, that graduation from a high school or promotion to another grade level is in any way dependent upon successful performance on any test administered as a part of the testing program.

60612. The State Board of Education shall determine which, if

any, of the results attained by pupils on the achievement tests administered in grades 6 and 12 may be recorded on the pupil's cumulative school record.

60613. The State Board of Education may replace the grade specification for the administration of specific tests pursuant to this article with a specification of age or time elapsed since the pupil entered school where such a specification is more consistent with patterns of school organization.

The Department of Education shall submit a report to the Joint Legislative Budget Committee explaining the reasons for replacing the grade specification. The report shall be submitted at least six months prior to any such change.

60614. No school district shall administer, in connection with the statewide testing program, or otherwise, any standardized group test which provides or attempts to provide a single measure of general scholastic aptitude of a pupil, to any pupil or group of pupils in the district, except:

(a) A school district may administer or allow to be administered scholastic aptitude tests for placement in special educational programs for mentally gifted minors provided pursuant to Chapter 8 (commencing with Section 52200) of Part 28 of this title or in postsecondary education or for the purpose of determining eligibility of students for scholarship awards, grants, or other awards relating to postsecondary education.

(b) A school district, with the prior approval of the Superintendent of Public Instruction, may administer group scholastic aptitude tests for research purposes, provided, that the district has a Superintendent of Public Instruction approved group testing plan which includes:

- (1) A current schedule of testing;
- (2) A statement of purposes of the uses of the tests; and
- (3) Provisions that such tests are administered and the results interpreted under the direct supervision of a qualified school psychologist, psychometrist, or school counselor.

## Article 2. Content, Course Evaluation

60630. From time to time, as the State Board of Education may determine, the board shall conduct studies of the effectiveness of the various content courses offered by the public schools of this state. Such studies shall include details of the specific objectives of the courses and the level of achievement attained by students enrolled in such courses and, for this purpose, the board may use the results of any test administered under the provisions of this chapter.

60631. Upon the completion of a study by the board pursuant to Section 60630, the board shall report its findings, and recommendations, if any, to the Governor and the Legislature not later than January 1 of the year succeeding completion of the study.

60632. In making reports to the Legislature pursuant to Section

60631, the board shall maintain the anonymity of all individual students involved. The board may make analyses involving other factors, including, but not limited to, general categories of pedagogies in use, type of district organization, geographic area, socioeconomic data, size of school district, or other analytical items which may prove useful.

60633. The governing board of any school district shall cooperate fully with the State Board of Education in making its schools available for studies; provided, that the State Board of Education shall provide all necessary materials and consultant services free of charge to the district.

60634. The State Board of Education may accept federal or other funds for the purpose of financing studies under this article. Such studies shall be conducted by the board on an ad hoc basis, and the board may utilize the expert services of any persons or groups of persons in public or private employment.

### Article 3. Testing, Miller-Unruh Basic Reading Act

60640. The State Board of Education shall require each school district to administer uniform tests to each pupil not later than his third month of attendance in the first grade. The first-grade entry level test shall obtain a composite estimate for each pupil of skills related to learning and memory, attention, visual perception, and auditory comprehension. The answer sheets shall be transmitted to the Department of Education for scoring. If no published test is deemed suitable, the State Board of Education may combine parts of available tests or develop a new test.

The State Board of Education shall also require each school district to administer uniform tests in reading annually to pupils in grades 2 and 3. Such tests shall be recommended by the Department of Education and shall be submitted to the State Board of Education for approval and adoption. If no published test is deemed suitable, the Department of Education may combine parts of available tests or develop a new test. Any test so adopted shall be equated to nationally normed tests so that the performance of California pupils may be compared to that of a national sample. The tests which have been approved and adopted by the board shall be printed or purchased and distributed to the various school districts in the state by the Department of Education. The answer sheets shall be transmitted to the Department of Education for scoring.

The State Board of Education shall develop a testing method that will obtain an accurate estimate of statewide performance of pupils in grades 2 and 3 in reading. Under such a testing method, the Department of Education shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all test objectives, goals, or categories of items on the entire test.

The procedure required by this section shall be implemented not later than the 1975-76 school year.

The State Board of Education shall determine the form in which the answer sheets for the first-grade entry level test shall be transmitted to the Department of Education for scoring, and the form in which the answer sheets for the uniform tests in reading for grades 2 and 3 shall be transmitted to the Department of Education for scoring.

The State Board of Education shall analyze the progress achieved by third grade pupils using the first-grade entry level test results as a basis for identifying comparable pupils receiving various kinds of reading instruction.

The State Board of Education shall adopt rules and regulations governing the time, place, and methods for administration of the testing program under this article.

Pupils who have been determined to be mentally retarded, as defined in this code, shall be exempted from the testing requirement imposed by Chapter 2 (commencing with Section 54100) of Part 29 of this division.

Pupils who have been determined to be educationally handicapped, as defined in this code, shall be subject to the testing requirement imposed by Chapter 2 (commencing with Section 54100) of Part 29 of this division, except such pupils shall be tested separately from regular pupils. The Department of Education shall annually prepare a comparative analysis of the scores or results of tests administered to educationally handicapped pupils and regular pupils. The Department of Education shall annually report to the Legislature the scores or results of the tests administered to educationally handicapped pupils.

The tests administered pursuant to this article shall be employed to determine each school district's quota of specialist reading teachers, as required by Article 3 (commencing with Section 54140) of Chapter 2 of Part 29 of this division.

Commencing with tests administered in the 1972-1973 school year, school districts shall submit answer sheets and related pupil information on a per-school basis.

60641. Scores for individual pupils on the first-grade entry level test shall not be used by school districts or teachers for individual diagnosis or placement or as a basis for any other decisions which would affect the pupil's elementary school experience. Scores from this test shall not in any manner be included on the pupil's cumulative school record.

The State Board of Education shall determine which, if any, of the scores attained by pupils on the tests administered in grades 2 and 3 may be recorded on the pupil's cumulative school record.

60642. The State Board of Education shall direct each school district to report annually its methods used to assess pupil performance in reading during grades 1, 2, and 3. The Department of Education shall assist the school districts to improve their local

programs of assessing pupil performance in reading.

60643. The scores of tests provided pursuant to Section 60640 of those pupils in grades 2 and 3 who have participated in a remedial program shall be maintained and treated separately.

From a study of the results of these tests in districts which conduct a basic reading program pursuant to this chapter, and the test results in districts which do not conduct such a program, the Superintendent of Public Instruction shall evaluate basic reading programs, and he shall report his findings annually to the State Board of Education.

The State Board of Education shall report its findings regarding the implementation of, and experience under, basic reading programs, together with any recommendations for any adjustments in the program, to the Legislature at each regular session. This report and the report required pursuant to Section 60660 may be consolidated into a single annual report.

60644. Except for the first-grade entry level test required by Section 60640, the State Board of Education may replace the grade specification for the administration of specific tests pursuant to this article with a specification of age or time elapsed since the pupil entered school where such a specification is more consistent with patterns of school organization.

The Department of Education shall submit a report to the Joint Legislative Budget Committee explaining the reasons for replacing the grade specification. The report shall be submitted at least six months prior to any such change.

#### Article 4. Tests

60650. No test, questionnaire, survey, or examination containing any questions about the pupil's personal beliefs or practices in sex, family life, morality and religion, or any questions about his parents', or guardians' beliefs and practices in sex, family life, morality and religion, shall be administered to any pupil in kindergarten or grade 1 through grade 12, inclusive, unless the parent or guardian of the pupil is notified in writing that such test, questionnaire, survey, or examination is to be administered and the parent or guardian of the pupil gives written permission for the pupil to take such test, questionnaire, survey, or examination.

#### Article 5. Testing, Evaluation and Analysis

60660. The Department of Education shall prepare and submit an annual report to the Legislature, the State Board of Education, and to each school district in the state containing an analysis, on a district-by-district basis, of the results and test scores of the testing program in basic skills courses, including tests administered pursuant to the Miller-Unruh Basic Reading Act of 1965, Chapter 2 (commencing with Section 54100) of Part 29 of this division and

Article 3 (commencing with Section 60640) of Chapter 5 of this part. The report shall include an analysis of the operational factors that appear to have a significant relationship to or bearing on the results.

The analysis may include, but need not be limited to, the following factors:

- (a) Demographic characteristics.
- (b) Financial characteristics.
- (c) Pupil and parent characteristics.
- (d) Instructional and staff characteristics.
- (e) Specially funded programs.

School districts shall submit to the Department of Education whatever information the department deems necessary to carry out the provisions of this section.

60661. The report to the Legislature required by Section 60660 and the report to the Legislature required pursuant to Section 60643 may be consolidated into a single annual report.

60662. The State Board of Education shall make recommendation to the Legislature as the board deems appropriate concerning appropriate or necessary legislation with respect to the results of the testing program and the evaluation and analysis thereof required by this chapter.

60663. Whenever the State Board of Education designates a new test to be administered under this chapter, the Department of Education shall study the compatibility and test results of the new test and existing tests and shall annually report the results of such study to the Legislature at the same time it submits its report pursuant to Section 60660.

60664. The Superintendent of Public Instruction shall perform an analysis of selected schools to identify educational factors which produce the distinction between unusually high-performing districts and unusually low-performing districts, such performance as measured by standard measures of school achievement.

The schools selected for study shall be comparable in social and demographic characteristics and shall vary only on student attainment.

The study shall last two calendar years so that variables discovered the first year may be verified the second year.

The Superintendent of Public Instruction shall report to the Legislature by January 5, 1975, on the identification and description of those socioeconomic, financial, and educational variables affecting school performance which tend to distinguish between unusually high-performing districts and unusually low-performing districts. By January 5, 1976, the Superintendent of Public Instruction shall issue a final report to the Legislature including information regarding the verifiability of the relative impact of the variables discovered during the first year of the study.

Article 6. Private School Testing, National Defense Education Act, Title V

60670. For the purposes of Title V of the National Defense Education Act of 1958, secondary education means education furnished by any public or private school in any grade not below grade 7 nor beyond grade 12.

60671. Upon the request of any private school providing secondary education, as defined in Section 60670, and pursuant to a state plan approved by the United States Commissioner of Education under Title V of the National Defense Education Act of 1958, the State Board of Education may enter into a contract with such school for a project for the testing of students regularly enrolled and attending grades 7 to 12, inclusive, in the school to identify students with outstanding aptitudes and ability. The State Board of Education may expend for the costs thereof any money received under Section 504 of Title V of the National Defense Education Act of 1958.

60672. It is in the interest of the state and of the people thereof for the state to permit the State Board of Education to provide for the identification of students with outstanding aptitudes and ability in public and private schools under a state plan to be approved by the United States Commissioner of Education under Title V of the National Defense Education Act of 1958 and for the state to expend for the costs of such testing any money received from the federal government for the purpose.

**TITLE 3. POSTSECONDARY EDUCATION****DIVISION 5. GENERAL PROVISIONS****PART 40. DONAHOE HIGHER EDUCATION ACT****CHAPTER 1. TITLE OF PART**

**66000.** This part shall be known and may be cited as the Donahoe Higher Education Act.

**CHAPTER 2. GENERAL PROVISIONS**

**66010.** Public higher education consists of (a) all public community colleges heretofore and hereafter established pursuant to law, (b) the California State University and Colleges, and each campus, branch, and function thereof heretofore and hereafter established pursuant to law, (c) each campus, branch and function of the University of California heretofore and hereafter established by the Regents of the University of California, and (d) the California Maritime Academy.

**66011.** It is hereby declared to be the policy of the Legislature that all resident applicants to California institutions of public higher education, who are determined to be qualified by law or by admission standards established by the respective governing boards, should be admitted to either (1) the public community colleges, (2) the California State University and Colleges, or (3) the University of California.

**66012.** It is hereby declared to be the intent of the Legislature that the fixed master plan approach in the development of public postsecondary education be replaced by a continuous planning process which includes:

(a) A legislative study of California postsecondary education at 10-year intervals to reevaluate the planning process and provide guidelines regarding goals, societal needs and general missions of public higher education and its components.

(b) Continuous planning by a state commission including a five-year plan which is to be updated annually.

**66013.** Each segment of public higher education shall strive for excellence in its sphere, as assigned in this part.

**66014.** The provisions of this part shall supersede the provisions of any other law which conflict with the provisions of this part.

**66014.5.** The Legislature hereby finds and declares that there is a great need of providing students with a true economic and academic freedom of choice in selecting a college or university they wish to attend. The Legislature further finds that this need shall be met by offering students financial assistance who wish to attend public or independent colleges and universities and who have

demonstrated financial need.

66016. It is the intent of the Legislature that opportunities for participation in intercollegiate athletic programs in the community colleges, in the campuses of the California State University and Colleges, and in the campuses of the University of California be provided on as equal a basis as is practicable to male and female students. The costs of providing these equal opportunities may vary according to the type of sports contained within the respective men's and women's athletic programs. Additional sources of revenue should be determined to provide additional funds for these equal opportunity programs.

66017. The chief administrative officer of a community college, state university or college, or the University of California shall take appropriate disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of the community college, state college, state university who, after a prompt hearing by a campus body, has been found to have willfully disrupted the orderly operation of the campus. Nothing in this section shall be construed to prohibit, where an immediate suspension is required in order to protect lives or property and to insure the maintenance of order, interim suspension pending a hearing; provided that a reasonable opportunity be afforded the suspended person for a hearing within 10 days. The disciplinary action may include, but need not be limited to, suspension, dismissal, or expulsion. The provisions of Sections 89538 to 89540, inclusive, shall be applicable to any state university or college employee dismissed pursuant to this section. The chief administrative officer of each such institution shall submit periodic reports as to the nature and disposition of cases acted upon pursuant to this section to his governing board.

66018. Each institution of public higher education shall require that all applications for any type of financial aid for students shall disclose all taxable income and all nontaxable income.

66019. (a) Each state university and college, when determining eligibility for any state university or college educational opportunity program, and each governing board of a community college district, when determining eligibility for any community college educational opportunity program, shall consider nontaxable income.

(b) The Regents of the University of California are requested to provide that nontaxable income be considered in all determinations of eligibility for any educational opportunity programs at the University of California.

66020. Within such differentiation of segmental function in public postsecondary education the institutions shall undertake intersegmental cooperation when it can:

(a) Enhance the achievement of the institutional missions shared by the segments.

(b) Enable public and private postsecondary education to more effectively meet the educational needs of a geographic region.

(c) Provide more effective planning of postsecondary education on a statewide basis.

66021. (Amended and renumbered Section 79023 by Stats. 1976, Ch 1011.)

[ORIGINAL SECTION]

66021 All public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln and George Washington on February 12th and February 22nd, respectively, or on the day in which school is in session next preceding, if the specified day is a holiday

66022. (Amended and renumbered Section 79026 by Stats. 1976, Ch 1011 )

[ORIGINAL SECTION]

66022 February 15th of each year, the anniversary of the birthday of Susan B. Anthony, is designated and set apart as Susan B Anthony Day.

All public schools and educational institutions shall observe this day with suitable exercises, directing attention to the development of the political and economic status of women in the United States, through the efforts of Susan B Anthony.

### CHAPTER 3. CAPITAL OUTLAY FUND

66100. A fund in the State Treasury is hereby created, to be known as the Capital Outlay Fund for Public Higher Education. All money in the Capital Outlay Fund for Public Higher Education, including any money deposited in said fund from any source whatsoever after the effective date of this chapter, shall be available, when appropriated by the Legislature, for expenditure for capital outlay purposes relating to public higher education including, but not limited to, acquisition of sites and construction of new institutions of public higher education thereon.

66101. As used in this chapter, "fund" means the Capital Outlay Fund for Public Higher Education.

66102. For purposes of this chapter, "public higher education" shall consist of (a) all public community colleges heretofore and hereafter established pursuant to law, (b) the California State University and Colleges, and each campus, branch, and function thereof, heretofore and hereafter established pursuant to law, (c) each campus, branch and function of the University of California heretofore and hereafter established by the Regents of the University of California, and (d) the California Maritime Academy.

66103. The Director of Finance shall cause all moneys in the fund which are in excess of current requirements to be invested and reinvested from time to time in securities described in Section 16430 of the Government Code, and such securities may be sold or exchanged if in his opinion such sale or exchange is in the best interests of the state in effectuating the purposes of this chapter. All income derived from such investment, reinvestment, sale, or exchange shall be credited to the fund.

### CHAPTER 4. ADMISSIONS

66200. It has been and continues to be the intent of the Legislature that all qualified California youth be insured the

opportunity to pursue higher learning.

The enrollment situation and admissions policies and procedures among California's public institutions of higher learning have been the subject of extensive public concern, and admissions practice has failed to reduce public uncertainties.

66201. It is the intent of the Legislature that each resident of California who has the capacity and motivation to benefit from higher education should have the opportunity to enroll in an institution of higher education. Once enrolled he should have the opportunity to continue as long and as far as his capacity and motivation, as indicated by his academic performance and commitment to educational advancement, will lead him to meet academic standards and institutional requirements.

The Legislature hereby reaffirms the commitment of the State of California to provide an appropriate place in California public higher education for every student who is willing and able to benefit from attendance.

66202. It is further the intent of the Legislature that the following categories be established insofar as practicable in the following order for the purpose of enrollment planning and admission priority practice at the undergraduate resident student level for the California State University and Colleges and the University of California:

- (1) Continuing undergraduate students in good standing.
- (2) California residents who have successfully completed the first two years of their baccalaureate program.
- (3) California residents entering at the freshman or sophomore levels.

It is further the intent of the Legislature that within each of the preceding enrollment categories, the following groups of applicants receive priority consideration in admissions practice in the following order:

- (a) Residents of California who are recently released veterans of the armed forces of the United States.
- (b) Transfers from California public community colleges.
- (c) Applicants who have been previously enrolled at the campus to which they are applying, provided they left such institution in good standing.
- (d) Applicants who have a degree or credential objective that is not generally offered at other public institutions of higher learning within California.
- (e) Applicants for whom the distance involved in attending another institution would create financial or other hardships.

It is further the intent of the Legislature that those veterans referred to in paragraph (a) who were enrolled in good standing at a campus of the University of California or at one of the California state universities or colleges prior to military service receive priority over other veterans recently released from military service.

- (4) Residents of other states and foreign countries.

The segments may, in implementing these enrollment plans and admissions priorities, consider the overall needs of students in maintaining a balanced program and a quality curriculum.

66203. The California State University and Colleges and the University of California shall keep a record of the applicants denied admission and develop and utilize an information collection system which will indicate the number of qualified applicants who could not be accommodated at their campus of first choice and were redirected to campuses of alternate choice and the number of qualified redirected applicants who declined an offer of admission to an alternate campus.

66204. The Trustees of the California State University and Colleges and the Regents of the University of California shall submit to the Legislature on January 5 of each year a report on the progress made on the implementation of the enrollment plans and admissions priorities system and on the establishment of the information system and the findings that are made available.

#### CHAPTER 5. RULES OF STUDENT CONDUCT

66300. The Regents of the University of California, the Trustees of the California State University and Colleges, and the governing board of every community college district, shall adopt or provide for the adoption of specific rules and regulations governing student behavior along with applicable penalties for violation of such rules and regulations. Such institutions shall adopt procedures by which all students will be informed of such rules and regulations, with applicable penalties, and any revisions thereof.

66301. The provisions of this chapter shall apply to the Regents of the University of California to the full extent authorized by Section 9 of Article IX of the California Constitution, and it is the intent of the Legislature that the regents adopt rules and procedures which they deem appropriate for carrying out the purposes of this chapter.

#### CHAPTER 6. ACADEMIC MATERIALS

66400. No person shall prepare, offer to prepare, cause to be prepared, sell, or otherwise distribute any term paper, thesis, dissertation, or other written material for another person, for a fee or other compensation, with the knowledge, or under circumstances in which he should reasonably have known, that such term paper, thesis, dissertation, or other written material is to be submitted by any other person for academic credit at any public or private college, university, or other institution of higher learning in this state.

66401. No person shall make or disseminate, with the intent to induce any other person to enter into any obligation relating thereto, any statement, written or oral, that he will prepare, cause to be prepared, sell, or otherwise distribute any term paper, thesis, dissertation, or other written material, for a fee or other

compensation, for or on behalf of any person who has been assigned the written preparation of such term paper, thesis, dissertation, or other written material for academic credit at any public or private college, university, or other institution of higher learning in this state.

66402. Any court of competent jurisdiction is hereby authorized to grant such relief as is necessary to enforce the provisions of this chapter, including the issuance of an injunction.

66403. Actions for injunction under the provisions of this chapter may be brought in the name of the people of the State of California upon their own complaint or upon the complaint of any person, or in the name of any public or private college, university, or other institution of higher learning, acting for the interest of itself, its students, or the general public.

66404. The provisions of this chapter are not exclusive. Nothing in this chapter shall be construed to preempt or in any other way limit, diminish, or imply the absence of rights of any party, public or private, against any person in connection with any of the acts described in Section 66400 or Section 66401.

66405. As used in this chapter, "person" means any individual, partnership, corporation, or association.

As used in this chapter, "prepare" means to put into condition for intended use. "Prepare" does not include the mere typing or assembling of papers, nor the mere furnishing of information or research.

## CHAPTER 7. UNIVERSITY OF CALIFORNIA

66500. The University of California may provide instruction in the liberal arts and sciences and in the professions, including the teaching professions. It shall have exclusive jurisdiction in public higher education over instruction in the profession of law and over graduate instruction in the professions of medicine, dentistry, and veterinary medicine. It has the sole authority in public higher education to award the doctoral degree in all fields of learning, except that it may agree with the California State University and Colleges to award joint doctoral degrees in selected fields. It shall be the primary state-supported academic agency for research.

66501. The university may make reasonable provision for the use of its library and research facilities by qualified members of the faculties of other institutions of public higher education in this state.

## CHAPTER 8. CALIFORNIA STATE UNIVERSITY AND COLLEGES

66600. The California State University and Colleges shall be administered by a board designated as the Trustees of the California State University and Colleges, which is hereby created.

66601. Whenever, in any law, the term "Trustees of the State College System of California" or the term "chief executive officer of the state college system" is used, such terms shall be deemed to mean

the Trustees of the California State University and Colleges and the Chancellor of the California State University and Colleges, respectively.

66602. The board shall be composed of the following four ex officio members: the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, and the person named by the trustees to serve as the Chancellor of the California State University and Colleges; and 16 appointive members appointed by the Governor and subject to confirmation by two-thirds of the Senate. There shall also be appointed by the Governor for a one-year term, a student from a California state university or college who shall have at least a junior year standing at the institution he or she attends, and shall remain in good standing as a student for the one-year term. In the selection of a student as a member of the board, the Governor shall appoint such student from a list of names of not more than five persons furnished by student representatives of each of the universities and colleges of the California State University and Colleges. The student representative of a university or college shall be the elected student body president or, in the case of a university or college not having an elected student body president, the person receiving the highest number of votes cast at a student body election held to select such student representative. The Speaker of the Assembly shall be an ex officio member, having equal rights and duties with nonlegislative members.

66603. The term of the appointive trustees shall be eight years.

66604. The expiration of a trustee's term of office as a member of the State Board of Education or any earlier vacancy in that office shall create a vacancy in his trusteeship, unless the term ascribed thereto by lot has already expired. In case of any vacancy on the board of trustees, the Governor shall appoint a successor for the balance of the term as to which such vacancy exists.

66605. If the trustees and the Regents of the University of California both consent, the Chancellor of the California State University and Colleges shall sit with the Regents of the University of California in an advisory capacity and the President of the University of California shall sit with the trustees in an advisory capacity.

66606. The Trustees of the California State University and Colleges shall succeed to the powers, duties and functions with respect to the management, administration and control of the state colleges heretofore vested in the State Board of Education or in the Director of Education, including all powers, duties, obligations, and functions specified in Article 2 (commencing with Section 90010) of Chapter 8 of Part 55 of Division 8 of this title, and all obligations assumed by the State Board of Education pursuant to that article prior to July 1, 1961.

On and after July 1, 1961, the Trustees of the California State University and Colleges shall have full power and responsibility in the construction and development of any state university or college

campus, and any buildings or other facilities or improvements connected with the California State University and Colleges. Such powers shall be exercised by the Trustees of the California State University and Colleges notwithstanding the provisions of Chapter 2 (commencing at Section 14100) and Chapter 3 (commencing at Section 14250) of Part 5 of Division 3 of Title 2 of the Government Code, except that the powers shall be carried out pursuant to the procedures prescribed by these laws.

The Trustees of the California State University and Colleges may accept gifts of land, or gifts of options on land, may accept and expend gifts of money for the purchase of land or options on land and may enter into negotiations and contracts for the purchase of land for a future state college site in the vicinity of any of the areas specified in the recommendations contained in the Master Plan for Higher Education printed on page 42, paragraph 5, Senate Journal (Regular Session) for February 1, 1960, except that such gifts, expenditures, negotiations, and contracts shall not obligate the expenditure of any state funds for the purchase of such land or for development on such land, unless the Legislature shall subsequently approve the obligation by appropriating the funds for that specific purpose.

Any such acceptance or acceptance and expenditure or negotiations and contract may be conditioned upon an automatic reversion back to the donor or automatic termination of the negotiations and contract if a new state university or college is not established at a specific site prior to a specific date designated by the trustees and the donor or the trustees and the person or corporation with whom the trustees are negotiating or contracting.

66607. The California State University and Colleges shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its trustees and in the administration of its affairs, and no person shall be debarred admission to any department of the state university and colleges on account of sex.

66608. The California State University and Colleges shall have as its primary function the provision of undergraduate instruction and graduate instruction through the master's degree. Presently established two-year programs in agriculture are authorized, but other two-year programs shall be permitted only when mutually agreed upon by the Trustees of the California State University and Colleges and the Board of Governors of the California Community Colleges. The doctoral degree may be awarded jointly with the University of California, as provided in Section 66500, or jointly with a private institution of postsecondary education accredited by the Western Association of Schools and Colleges and provided the proposed doctoral program is approved by the California Postsecondary Education Commission. Faculty research is authorized to the extent that it is consistent with the primary function of the California State University and Colleges.

66609. All state employees employed on June 30, 1961, in carrying out functions transferred to the Trustees of California State University and Colleges by this chapter, except persons employed by the Director of Education in the Division of State Colleges and Teacher Education of the Department of Education, are transferred to the California State University and Colleges.

Nonacademic employees so transferred shall retain their respective positions in the state service, together with the personnel benefits accumulated by them at the time of transfer, and shall retain such rights as may attach under the law to the positions which they held at the time of transfer. All nonacademic positions filled by the trustees on and after July 1, 1961, shall be by appointment made in accordance with Chapter 5 (commencing with Section 89500) of Part 55 of Division 8 of this title, and persons so appointed shall be subject to the provisions of Chapter 5.

The trustees shall provide, or cooperate in providing, academic and administrative employees transferred by this section with personnel rights and benefits at least equal to those accumulated by them as employees of the state colleges, except that any administrative employee may be reassigned to an academic or other position commensurate with his qualifications at the salary fixed for that position and shall have a right to appeal from such reassignment, but only as to whether the position to which he is reassigned is commensurate with his qualifications. All academic and administrative positions filled by the trustees on and after July 1, 1961, shall be filled by appointment made solely at the discretion of the trustees. The trustees shall establish and adjust the salaries and classifications of all academic, nonacademic, and administrative positions and neither Section 18004 of the Government Code nor any other provision of law requiring approval by a state officer or agency for such salaries or classifications shall be applicable thereto. In establishing and adjusting such salaries, consideration shall be given to the maintenance of the state university and colleges in a competitive position in the recruitment and retention of qualified personnel in relation to other educational institutions, private industry or public jurisdictions which are employing personnel with similar duties and responsibilities. The establishment and adjustment of salaries for nonacademic employees shall be in accordance with the standards prescribed in Section 18850 of the Government Code. The trustees, however, shall make no adjustments which require expenditures in excess of existing appropriations available for the payment of salaries. The provisions of Chapter 5 (commencing with Section 89500) of Part 52 of Division 8 of this title relating to appeals from dismissal, demotion or suspension shall be applicable to academic employees.

Persons excluded from the transfer made by this section shall retain all the rights and privileges conferred upon civil service employees by law. Personnel of state agencies employed in state university and college work other than those transferred by this

section and who are employed by the trustees prior to July 1, 1962, shall be provided with personnel rights and benefits at least equal to those accumulated by them as employees of such state agencies.

#### CHAPTER 9. COMMUNITY COLLEGES

66700. The public community colleges are secondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of public community colleges and exercise general supervision over public community colleges.

66701. Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree. Their program may include but shall not be limited to: standard collegiate courses for transfer to other institutions; vocational and technical fields leading to employment; general or liberal arts courses; and community services.

#### CHAPTER 10. INTERSTATE ATTENDANCE AGREEMENTS

66800. The Legislature recognizes that existing community colleges in California may benefit from larger and more heterogeneous enrollment in certain curricula and that additional enrollment may often be added with little or no increase in the total operational cost of a given curriculum. It also recognizes that California residents can be provided more complete and more useful curricula in many cases if the curricula is planned and offered on the basis of the needs of an entire region.

The Legislature encourages California community college districts and the Board of Governors of the California Community Colleges to include the educational needs of, and facilities available in, territory adjacent to California in their planning and to make use of those needs and facilities to the extent possible in the conduct of community college education in California.

66801. The Board of Governors of the California Community Colleges is authorized to enter into an interstate attendance agreement with any statewide public agency of another state, which is responsible for public schools providing instruction in grades 13 and 14 and which is an agency of a state which is a party to the Western Interstate Compact for Higher Education, for the exchange of residents, on a one-for-one basis, for the purposes of instruction. The agreement shall contain such terms as the board of governors may adopt and which are consistent with the authority and responsibility of California community college districts and the community colleges they maintain. In no event shall such an agreement permit or require the entry of California residents into institutions in another state on terms substantially different from

those governing the admission of residents of the other state to California community colleges. Such agreements shall contain the provision that no additional state funds shall be required to carry out the provisions of this chapter.

66802. The governing board of each California community college district is authorized to participate in an interstate attendance agreement entered into by the board of governors. The governing board of a California community college district elects to participate by adopting a resolution to that effect and filing that resolution with the board of governors. The participation may be limited in any manner which is consistent with terms of the interstate attendance agreement in which the district desires to participate.

66803. If the governing board of a California community college district elects to participate in an interstate attendance agreement, it may waive, as a condition to such participation, all or part of the nonresident tuition required by Section 90019 in accordance with the terms of that interstate attendance agreement. Such a waiver shall apply only to students attending a community college maintained by that district pursuant to the provisions of that interstate attendance agreement.

66804. The board of governors may adopt rules and regulations to implement the provisions of this article as these provisions apply to California community college districts or to the State of California. Such rules and regulations shall contain the provision that no additional state funds shall be required to carry out the provisions of this chapter. The board of governors shall file a report on the operation of this article on or before January 8, 1975.

## CHAPTER 11 CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

66900. The Legislature finds that coordination and planning are vital elements in providing postsecondary education to meet the needs of the people of the State of California.

The Legislature intends to create a statewide agency to assure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs through planning and coordination.

It is further the intent of the Legislature that educational policy recommendations of the commission shall be a primary consideration in developing state policy and funding for postsecondary education.

It is further the intent of the Legislature that the commission shall have adequate staffing and funding to carry out its duties and responsibilities.

It is further the intent of the Legislature that the commission shall encourage the participation of faculty members, students,

administrators, and members of the general public in carrying out its duties and responsibilities.

66901. There is hereby created the California Postsecondary Education Commission, which shall be advisory to the Governor, the Legislature, other appropriate governmental officials, and institutions of postsecondary education. The commission shall be composed of the following members:

(1) Two representatives of the Regents of the University of California designated by the regents, two representatives of the Trustees of the California State University and Colleges designated by the trustees, and two representatives of the Board of Governors of the California Community Colleges designated by the board. Representatives of the regents, the trustees, and the board of governors shall be chosen from among the appointed members of their respective boards, but in no instance shall an ex officio member of a governing board serve on the commission.

(2) Two representatives of the independent California colleges and universities which are accredited by a national or regional association which is recognized by the United States Office of Education. These members shall be appointed by the Governor from a list or lists submitted by an association or associations of such institutions.

(3) The chairmen of the California Advisory Council on Vocational Education and Technical Training and the Council for Private Postsecondary Educational Institutions or their designees from among the other members of their respective councils.

(4) The President of the State Board of Education or his designee from among the other members of the board.

(5) Twelve representatives of the general public appointed as follows: four by the Governor, four by the Senate Rules Committee, and four by the Speaker of the Assembly. It is the intent of the Legislature that the commission be broadly and equitably representative of the general public in the appointment of its public members and that the appointing authorities, therefore, shall confer to assure that their combined appointments include adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the state.

No person who is regularly employed in any administrative, faculty, or professional position by any institution of public or private postsecondary education shall be appointed to the commission.

The commission members designated in subdivisions (1), (3), and (4) shall serve at the pleasure of their respective appointing authorities. The member designated in subdivision (2) shall serve a three-year term. The members designated in subdivision (5) shall each serve a six-year term. When vacancies occur prior to expiration of terms, the respective appointing authority may appoint a member for the remainder of the term.

Any person appointed pursuant to this section may be reappointed to serve additional terms.

No person appointed pursuant to this section shall, with respect to any matter before the commission, vote for or on behalf of, or in any way exercise the vote of, any other member of the commission.

The commission shall meet as often as it deems necessary to carry out its duties and responsibilities.

Any member of the commission who in any calendar year misses more than one-fourth of the meetings of the commission forfeits his office, thereby creating a vacancy.

The commission shall select a chairman from among the members representing the general public. The chairman shall hold office for a term of one year and may be selected to successive terms.

There is established an advisory committee to the commission and the director, consisting of the chief executive officers of each of the public segments, or their designees, the Superintendent of Public Instruction or his designee, and an executive officer from each of the groups of institutions designated in subdivisions (2) and (3) of Section 66901 to be designated by the respective commission representative or representatives from such groups. Commission meeting agenda items and associated documents shall be provided to the committee in a timely manner for its consideration and comments.

The commission may appoint such subcommittees or advisory committees as it deems necessary to advise it on matters of educational policy. Such advisory committees may consist of commission members or nonmembers or both, including students, faculty members, segmental representatives, governmental representatives, and representatives of the public.

The commission shall appoint and may remove a director in the manner hereinafter specified. He shall appoint persons to such staff positions as the commission may authorize.

The commission shall prescribe rules for the transaction of its own affairs, subject, however, to the following requirement and limitations: (1) The votes of all representatives shall be recorded, (2) effective action shall require the affirmative vote of a majority of all the members of the commission and (3) the affirmative votes of two-thirds of all the members of the commission shall be necessary to the appointment of the director.

66902. The commission shall have power to require the governing boards and the institutions of public postsecondary education to submit data on plans and programs, costs, selection and retention of students, enrollments, plant capacities and other matters pertinent to effective planning, policy development, articulation and coordination, and shall furnish information concerning such matters to the Governor and to the Legislature as requested by them.

66903. The commission shall have the following functions and responsibilities in its capacity as the statewide postsecondary education planning and coordinating agency and adviser to the Legislature and Governor:

- (1) It shall require the governing boards of the segments of public

postsecondary education to develop and submit to the commission institutional and systemwide long-range plans in a form determined by the commission after consultation with the segments.

(2) It shall prepare a five-year state plan for postsecondary education which shall integrate the planning efforts of the public segments and other pertinent plans. The commission shall seek to resolve conflicts or inconsistencies among segmental plans in consultation with the segments. If such consultations are unsuccessful the commission shall report the unresolved issues to the Legislature with recommendations for resolution.

In developing such plan, the commission shall consider at least the following factors: (a) the need for and location of new facilities, (b) the range and kinds of programs appropriate to each institution or system, (c) the budgetary priorities of the institutions and systems of postsecondary education, (d) the impact of various types and levels of student charges on students and on postsecondary educational programs and institutions, (e) appropriate levels of state-funded student financial aid, (f) access and admissions of students to postsecondary education, (g) the educational programs and resources of private postsecondary institutions, and (h) the provisions of this division differentiating the functions of the public systems of higher education.

(3) It shall update the state plan annually.

(4) It shall participate in appropriate stages of the executive and legislative budget processes as requested by the executive and legislative branches and shall advise the executive and legislative branches as to whether segmental programmatic budgetary requests are compatible with the state plan. It is not intended that the commission hold independent budget hearings.

(5) It shall advise the Legislature and Governor regarding the need for and location of new institutions and campuses of public higher education.

(6) It shall review proposals by the public segments for new programs and make recommendations regarding such proposals to the Legislature and the Governor.

(7) It shall, in consultation with the public segments, establish a schedule for segmental review of selected educational programs, evaluate the program review processes of the segments, and report its findings and recommendations to the Governor and the Legislature.

(8) It shall serve as a stimulus to the segments and institutions of postsecondary education by projecting and identifying societal and educational needs and encouraging adaptability to change.

(9) It shall develop and submit plans to the Legislature and the Governor for the funding and administration of a program to encourage innovative educational programs by institutions of postsecondary education.

(10) It shall collect or conduct or both collect and conduct studies of projected manpower supply and demand, in cooperation with

appropriate state agencies, and disseminate the results of such studies to institutions of postsecondary education and to the public in order to improve the information base upon which student choices are made.

(11) It shall periodically review and make recommendations concerning the need for and availability of postsecondary programs for adult and continuing education.

(12) It shall develop criteria for evaluating the effectiveness of all aspects of postsecondary education.

(13) It shall maintain and update annually an inventory of all off-campus programs and facilities for education, research and community service operated by public and private institutions of postsecondary education.

(14) It shall act as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies, and develop a comprehensive data base insuring comparability of data from diverse sources.

(15) It shall establish criteria for state support of new and existing programs, in consultation with the public segments, the Department of Finance, and the Joint Legislative Budget Committee.

(16) It shall comply with the appropriate provisions of the Education Amendments of 1972 (P.L. 92-318) as specified in Section 67000.

(17) It shall consider the relationships between academic and occupational and vocational education programs and shall actively encourage the participation of state and local and public and private persons and agencies with a direct interest in these areas.

(18) It shall review all proposals for changes in eligibility pools for admission to public institutions and segments of postsecondary education and shall make recommendations to the Legislature, Governor, and institutions of postsecondary education.

(19) It shall report annually on or before January 1st to the Legislature and the Governor regarding the financial conditions of independent institutions, their enrollment and application figures, the number of student spaces available, and the respective cost of utilizing those spaces as compared to providing additional public spaces. Such reports shall include recommendations concerning state policies and programs having a significant impact on independent institutions.

(20) It shall, upon request of the Legislature or the Governor, submit to the Legislature and the Governor a report on all matters so requested which are compatible with its role as the statewide postsecondary education planning and coordinating agency and may, from time to time, submit to the Governor and the Legislature a report which contains recommendations as to necessary or desirable changes, if any, in the functions, policies, and programs of the several segments of public and private postsecondary education.

(21) It may undertake such other functions and responsibilities as

are compatible with its role as the statewide postsecondary education planning and coordinating agency.

66904. It is the intent of the Legislature that sites for new institutions or branches of the University of California and the California State University and Colleges, and such classes of off-campus centers as the commission shall determine, shall not be authorized or acquired unless recommended by the commission.

It is further the intent of the Legislature that California community colleges shall not receive state funds for acquisition of sites or construction of new institutions, branches, or off-campus centers unless recommended by the commission. Acquisition or construction of non-state-funded community college institutions, branches, and off-campus centers shall be reported to the commission.

It is further the intent of the Legislature that existing or new institutions of public education, other than those described in subdivisions (2) and (3) of Section 66010 shall not be authorized to offer instruction beyond the 14th grade level.

All proposals for new postsecondary educational programs shall be forwarded to the commission for review together with such supporting materials and documents as the commission may specify. The commission shall review such proposals within a reasonable length of time, which time shall not exceed 60 days following submission of the program and the specified materials and documents. For the purposes of this section, "new postsecondary educational programs" means all proposals for new schools or colleges, all series of courses arranged in a scope or sequence leading to (1) a graduate or undergraduate degree, or (2) a certificate of a type defined by the commission, which have not appeared in a segment's or district's academic plan within the previous two years, and all proposals for new research institutes or centers which have not appeared in a segment's or district's academic plan within the previous two years.

It is further the intent of the Legislature that the advice of the commission be utilized in reaching decisions on requests for funding new and continuing graduate and professional programs, enrollment levels, and capital outlay for existing and new campuses, colleges, and off-campus centers.

66905. The provisions of Section 66904 concerning community colleges shall not be applicable to a community college constructed in a territory annexed to an existing community college district, where such annexation became effective, for all purposes, on July 1, 1968.

66906. Each member of the commission shall receive a stipend of fifty dollars (\$50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out

the powers and duties of the commission and, in addition, shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.

66907. Initial appointments to the commission shall be made in the following manner:

(1) The Governor shall appoint one member for a one-year term, one member for a two-year term, one member for a four-year term, and one member for a six-year term.

(2) The Senate Rules Committee shall appoint one member for a one-year term, one member for a two-year term, one member for a four-year term, and one member for a six-year term.

(3) The Speaker of the Assembly shall appoint one member for a one-year term, one member for a two-year term, one member for a four-year term, and one member for a six-year term.

Initial appointments to the California Postsecondary Education Commission shall become effective on January 10, 1974. All subsequent terms will begin on January 1 of the year in which the respective terms are to start.

The Superintendent of Public Instruction shall convene and chair meetings of the commission in January, February and March of 1974. In March 1974, the commission shall select a chairman and shall have adopted procedures for recruitment and appointment of a director.

The Coordinating Council for Higher Education shall continue in existence until March 31, 1974. The California Postsecondary Education Commission shall, on April 1, 1974, succeed to the powers, duties, and functions vested in the Coordinating Council for Higher Education.

Responsibilities heretofore assigned to the Coordinating Council for Higher Education through legislative resolution and budget language shall be assumed by the commission on April 1, 1974. All ongoing projects, information, and files of the council shall be transferred to the commission on that date.

## CHAPTER 12. FEDERAL ASSISTANCE FOR HIGHER EDUCATION

67000. The people of the State of California accept the provisions of and each of the funds provided by Title 1 and Title X of the Education Amendments of 1972 (Public Law 92-318).

67001. In accepting the benefits of the act of Congress, the people of the state agree to comply with all of the provisions and to observe all of its requirements.

67002. The California Postsecondary Education Commission is designated as the state educational agency to carry out the purposes and provisions of the Education Amendments of 1972 (Public Law 92-318) as follows:

(a) The commission is designated as the state commission required to be established pursuant to Section 1202 of Title X of the Higher Education Act of 1965 (Public Law 89-329) as amended by the Education Amendments of 1972 (Public Law 92-318);

(b) The commission is designated as the state administrative agency required to be established pursuant to Section 1055 of Title X of the Higher Education Act of 1965 (Public Law 89-329) as amended by the Education Amendments of 1972 (Public Law 92-318), unless such designation is determined by the federal government to be in conflict with federal law or regulations;

(c) The commission is designated as the state administrative agency required to be established pursuant to Section 105 of Title I, Section 122 of Title III, Section 603 of Title VI and Section 704 of Title VII of the Higher Education Act of 1965 (Public Law 89-329) as amended by the Education Amendments of 1972 (Public Law 92-318). The California Postsecondary Education Commission is hereby vested with authority to prepare and submit to the United States Commissioner of Education any state plan required by said act of Congress, to prepare and submit amendments to such state plans, and to administer such state plans or amendments thereto, in accordance with said act of Congress and any rules and regulations adopted thereunder. Any such state plan or amendment thereto prepared by the California Postsecondary Education Commission shall be subject to the approval of the Department of Finance to the extent required by Section 13326 of the Government Code. The California Postsecondary Education Commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of the act of Congress and the rules and regulations adopted thereunder.

67003. The Trustees of the California State University and Colleges on behalf of the California State University and Colleges, the Regents of the University of California on behalf of the university, the Board of Governors of the California Community Colleges on behalf of the community colleges and the Board of Governors of the California Maritime Academy on behalf of the California Maritime Academy, are vested with all power and authority to perform all acts necessary to receive the benefits and to expend the funds provided by said act of Congress and with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, and with the California Postsecondary Education Commission for the purpose of receiving the benefits and expending the funds provided by said act of Congress, in accordance with said act, or any rules or regulations adopted thereunder, or any state plan or rules or regulations of the California Postsecondary Education Commission adopted in accordance with said act of Congress. Whenever necessary to secure the full benefits of said act of Congress for loans or grants for academic facilities, such trustees, regents, or boards of governors may give such security as may be required and may comply with such conditions as may be imposed by the federal government.

67004. The State Treasurer is designated as the custodian of all funds received by the state from the government of the United

States, or of any agency or agencies thereof, under the federal act and he is authorized to receive and provide for the custody of all moneys so received.

67005. The funds received by the state under the provisions of the federal act shall be paid out by the State Treasurer on warrants drawn by the Controller and requisitioned by the California Postsecondary Education Commission in carrying out the purposes of the federal act.

67006. The office of the Governor is designated as the state educational agency to carry out the purposes and the provisions of Section 802 of Title VIII of the Housing Act of 1964.

The office of the Governor is hereby vested with authority to prepare and submit any state plan required by said section of said act of Congress, to prepare and submit amendments to such state plan, and to administer such state plan or amendments thereto, in accordance with said act of Congress, and any rules and regulations adopted thereunder. Any such state plan or amendment thereto prepared by the office of the Governor shall be subject to the approval of the Department of Finance.

The office of the Governor is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of the act of Congress and the rules and regulations adopted thereunder.

67007. The State Board of Education is vested with all necessary power and authority to perform all acts necessary to authorize governing boards of districts maintaining community colleges to receive the benefits and to expend the funds provided by any acts of Congress under which districts maintaining community colleges may be eligible to receive benefits, including, but not limited to, Title VII of the Housing Act of 1961 (Public Law 87-70), as amended, and any of the acts of Congress referred to in this chapter. The board is vested with all necessary power and authority to authorize districts maintaining community colleges to cooperate with the government of the United States, or any agency or agencies thereof, for the purpose of receiving the benefits and expending the funds provided by said acts of Congress, or any rules or regulations adopted thereunder, or any state plan or rules or regulations of the California Postsecondary Education Commission adopted in accordance with any of said acts of Congress under which the California Postsecondary Education Commission is designated in this chapter as the state educational agency. Whenever necessary to secure the full benefits of said acts of Congress, the governing board may give such security as may be required and may comply with such conditions as may be imposed by the federal government. The funds received by the district under the provisions of said acts of Congress shall be deposited in the county treasury as provided for in Section 84001.

This section shall be applicable to only those acts of Congress which have been enacted prior to January 1, 1967.

**PART 41. UNIFORM STUDENT RESIDENCY  
REQUIREMENTS**

**CHAPTER 1. STUDENT RESIDENCY REQUIREMENTS**

**Article 1. General Provisions**

68000. It is the intent of the Legislature that the public institutions of higher education shall apply uniform rules, as set forth in this chapter and not otherwise, in determining whether a student shall be classified as resident or a nonresident.

**Article 2. Definitions**

68010. The definitions set forth in this article shall govern the construction of this part.

68011. "Institution" means the University of California, the California State University and Colleges, the California Maritime Academy, or a California community college.

68012. "Governing board" means the Regents of the University of California, the Trustees of the California State University and Colleges, the Board of Governors of the California Maritime Academy, or the Board of Governors of the California Community Colleges.

68013. "District governing board" means the governing board of a district maintaining one or more community colleges.

68014. "Parent" means a minor's father; or if he has no father, his mother; or, if both parents are deceased, his legal guardian.

68015. "Student" means a person enrolled in or applying for admission to an institution.

68016. "Continuous attendance," as it refers to attendance at an institution, means a student claiming continuous attendance who has been enrolled full time, as determined by the governing board, for a normal academic year at such institution since the beginning of the period for which continuous attendance is claimed. Nothing in this section shall require a student to attend summer sessions or other terms beyond the normal academic year in order to render his attendance "continuous."

68017. A "resident" is a student who has residence, pursuant to Article 5 (commencing with Section 68060) of this chapter in the state for more than one year immediately preceding the residence determination date.

68018. A "nonresident" is a student who does not have residence in the state for more than one year immediately preceding the residence determination date.

68019. A "district resident" is a resident who has residence within a district in the state.

68020. A "nondistrict resident" is a resident who does not have residence within a district in the state, or a student who, (a) within

39 months period immediately preceding the residence determination date, was graduated from a high school which is situated in territory not within a district, and (b) whose parent resides in such territory.

68021. "District" means a community college district maintaining one or more community colleges.

68022. "Resident classification" means classification as a resident, pursuant to Section 68017, at the University of California, the California State University and Colleges, and the California Maritime Academy, and as a district resident, pursuant to Section 68019, or a nondistrict resident, pursuant to Section 68020, at a California community college.

68023. "Residence determination date" is a date or day established by the governing boards for each semester, quarter, or term to determine a student's residence.

### Article 3. Classification

68040. Each student shall be classified as: (a) a resident or nonresident at the University of California, the California State University and Colleges, or the California Maritime Academy; or (b) a district resident, nondistrict resident or nonresident at a California community college.

68041. Each student enrolled or applying for admission to an institution shall provide such information and evidence of residence as deemed necessary by the governing board to determine his classification. An oath or affirmation may be required in connection with taking testimony necessary to ascertain a student's classification. The determination of a student's classification shall be made in accordance with the provisions of this part and the residence determination date for the semester, quarter, or term for which the student proposes to attend an institution.

68042. The governing board or district governing board may appoint persons to administer oaths or affirmations in connection with taking testimony necessary to ascertain a student's classification.

68043. A student classified as a nonresident shall not obtain resident classification as a result of maintaining continuous attendance at an institution without meeting the other requirements of this part for obtaining such classification.

68044. The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. Such rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges.

#### Article 4. Nonresident Tuition

68050. A student classified as a nonresident shall be required, except as otherwise provided in this part, to pay, in addition to other fees required by the institution, nonresident tuition.

68051. Unless otherwise provided by law, the governing board shall adopt rules and regulations relating to the method of calculation of the amount of nonresident tuition, the method of payment, and the method and amount of refund.

#### Article 5. Determination of Student Residence

68060. Every person has, in law, a residence.

68061. Every person who is married or 18 years of age, or older, and under no legal disability to do so, may establish residence.

68062. In determining the place of residence the following rules are to be observed:

(a) There can only be one residence.

(b) A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose.

(c) A residence cannot be lost until another is gained.

(d) The residence can be changed only by the union of act and intent.

(e) A man or woman may establish his or her residence. A woman's residence shall not be derivative from that of her husband.

(f) The residence of the parent with whom an unmarried minor child maintains his place of abode is the residence of the unmarried minor child. When the minor lives with neither parent his residence is that of the parent with whom he maintained his last place of abode, provided the minor may establish his residence when both parents are deceased and a legal guardian has not been appointed.

(g) The residence of an unmarried minor who has a parent living cannot be changed by his own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

#### Article 6. Exceptions to Residence Determination

68070. A student who remains in this state after his parent, who was theretofore domiciled in California for at least one year immediately prior to leaving and has, during the student's minority and within one year immediately prior to the residency determination date, established residence elsewhere, shall be entitled to resident classification until he has attained the age of majority and has resided in the state the minimum time necessary to become a resident, so long as, once enrolled, he maintains continuous attendance at an institution.

68071. A student who has been entirely self-supporting and actually present in California for more than one year immediately

preceding the residence determination date, with the intention of acquiring a residence therein, shall be entitled to resident classification until he has resided in the state the minimum time necessary to become a resident.

68072. A student who has not been an adult for more than one year immediately preceding the residence determination date for the semester, quarter or term for which he proposes to attend an institution shall have his immediate premajority derived California residence, if any, added to his postmajority residence to obtain the one year of California residence required by Section 68017.

68073. A student shall be entitled to resident classification if, immediately prior to enrolling at an institution, he has lived with and been under the continuous direct care and control of any adult or adults, other than a parent, for a period of not less than two years, provided that the adult or adults having such control have been domiciled in California during the year immediately prior to the residence determination date. This exception shall continue until the student has attained the age of majority and has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

68074. A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he has resided in the state the minimum time necessary to become a resident.

Should that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, be thereafter transferred on military orders to a place outside the continental United States where the member continues to serve in the armed forces of the United States, the student dependent shall not lose his resident classification until he has resided in the state the minimum time necessary to become a resident.

68075. A student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, shall be entitled to resident classification until he has resided in the state the minimum time necessary to become a resident.

68076. A student who is an adult alien shall be entitled to resident classification if he has been lawfully admitted to the United States for permanent residence in accordance with all applicable laws of the United States; provided, that he has had residence in the state for more than one year after such admission prior to the residence determination date for the semester, quarter or term for which he proposes to attend an institution.

68077. A student who is a minor alien shall be entitled to resident classification if both he and his parent have been lawfully admitted to the United States for permanent residence in accordance with all

applicable laws of the United States; provided, that the parent has had residence in the state for more than one year after such admission prior to the residence determination date for the semester, quarter or term for which he proposes to attend an institution.

68078. A student holding a valid credential authorizing service in the public schools of this state who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution shall be entitled to resident classification if such student meets any of the following requirements:

(a) Holding of a provisional credential and enrollment at an institution in courses necessary to obtain another type of credential authorizing service in the public schools.

(b) Holding a credential issued pursuant to Section 44250 and enrollment at an institution in courses necessary to fulfill credential requirements.

(c) Enrollment at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Section 44259.

68079. A student who is a full-time employee of an institution or a student who is a child or spouse of a full-time employee of an institution may be entitled to resident classification, as determined by the governing boards, until he has resided in the state the minimum time necessary to become a resident.

68080. A student who is a minor and resides with either his father or mother in a district or territory not in a district shall be entitled to resident classification, provided that the father or mother has been domiciled in California for more than one year prior to the residence determination date for the semester, quarter or term for which he proposes to attend a community college and provided that he meets the other requirements of this part.

68081. A student who is an apprentice, as defined in Section 3077 of the Labor Code, shall be entitled to resident classification for attendance at a community college.

## Article 7. Rules and Regulations

68090. The governing boards shall adopt appropriate rules and regulations to insure the orderly implementation of this part. The district governing boards may adopt rules and regulations, which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges, in order to insure the orderly implementation of this part.

The residence determination date and a summary of the rules and regulations adopted by governing boards and district governing boards pursuant to this chapter shall be published in the respective institutional catalogs. The statute law and the rules and regulations adopted by the governing board shall be made available to the

students at each institution.

It is the intent of the Legislature that the governing boards, insofar as possible, adopt uniform rules and regulations, to insure consistent application of residency requirements among all institutions.

#### Article 8. Community College District Residence

68100. A district may classify a student as a district resident if he lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states and the parent has performed such labor in this state for at least two months per year in each of the two preceding years, the parent lives within the district which maintains the community college attended by the student, and the parent claims the student as a dependent on his state or federal personal income tax returns if he has sufficient income to have a personal income tax liability.

A district may also classify a student as a district resident if he earns a livelihood primarily by performing agricultural labor for hire in California and other states and he has performed such labor in this state for at least two months per year in each of the two preceding years.

The Board of Governors of the California Community Colleges shall prescribe rules and regulations for the implementation of this section.

#### Article 9. Alien Residency

68110. Commencing with the 1973-74 fiscal year and thereafter, notwithstanding the provisions of Sections 85132 and 68076, and for the purpose of crediting attendance for apportionments from the State School Fund and computing the revenue limit of any school district maintaining a community college, students lawfully admitted to the United States for permanent residence in accordance with all applicable laws of the United States and enrolled at a community college in a class in English and citizenship for foreigners as provided in Section 78462 shall be counted as resident students to the extent of their enrollment in such classes.

#### Article 10. Provisions Related to Particular Institutions

68120. (a) Notwithstanding any other provisions of law to the contrary, no fees or tuition of any kind shall be required of or collected by the Regents of the University of California from any surviving child, natural or adopted, of a person who is a resident of this state employed by a public agency whose principal duties consist of active law enforcement service or active fire suppression and prevention, except a person whose principal duties are clerical even though such a person is subject to occasional call or is occasionally called upon to perform duties within the scope of active law

enforcement or active fire suppression and prevention, who is killed in the performance of active law enforcement or active fire suppression and prevention duties or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his active law enforcement or active fire suppression and prevention duties.

(b) As used in this section, "public agency" means the state or any city, county, district, or other local authority or public body of or within this state.

68121. (a) Notwithstanding any other provisions of law to the contrary, no fees or tuition of any kind shall be required of or collected by the Trustees of the California State University and Colleges from any surviving child, natural or adopted, of a person who is a resident of this state employed by a public agency whose principal duties consist of active law enforcement service or active fire suppression and prevention, except a person whose principal duties are clerical even though such a person is subject to occasional call or is occasionally called upon to perform duties within the scope of active law enforcement or active fire suppression and prevention, who is killed in the performance of active law enforcement or active fire suppression and prevention duties or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his active law enforcement or active fire suppression and prevention duties.

(b) As used in this section, "public agency" means the state or any city, county, district, or other local authority or public body of or within this state.

68122. The trustees may not charge a student the nonresident tuition fee if the student meets all of the following criteria:

(a) He is a citizen of a foreign country and has not been admitted into the United States for permanent residence.

(b) He has lived continuously in this state for at least three years immediately preceding the residence determination date, during which time he has attended California public schools, having a regular curriculum, as a full-time student for six consecutive academic semesters, culminating in his receipt of a high school diploma.

(c) He is not receiving assistance from any public or private agency or any government.

This section shall remain in effect only until January 1, 1978, and as of that date is repealed.

68123. Notwithstanding any other provision of law, the Trustees of the California State University and Colleges may enter into agreements with other universities or colleges located within the state whereby qualified students from campuses of the California State University and Colleges may attend such other universities or colleges without payment of some or all fees or tuition, or both, charged by such institutions, and students from such institutions may attend campuses of the California State University and Colleges

without payment of some or all of the fees or tuition, or both, charged by the state university or college; provided that during any year, the number of students attending campuses of the California State University and Colleges from other universities or colleges, pursuant to such agreements entered in between the Trustees of the California State University and Colleges and other universities and colleges, shall not exceed the number of students of the California State University and Colleges attending such other institutions.

68124. The trustees may enter into agreements with public colleges and universities in other states whereby qualified students from the California State University and Colleges may attend such other college or university without payment of any tuition fee charged by that institution to persons who are nonresidents of the state in which it is situate, and students from that institution may attend the California State University and Colleges without payment of the nonresident tuition established pursuant to Section 89705. No nonresident tuition shall be charged of students attending a campus of the California State University and Colleges pursuant to an agreement entered into under this section; provided, that during any year, the number of students attending the California State University and Colleges from a particular public college or university in another state, pursuant to such agreement, shall not exceed the number of the California State University and Colleges students attending such institution under that agreement.

#### Article 11. Miscellaneous Provisions

68130. The governing boards and district governing boards may waive nonresident tuition in whole or in part pursuant to Sections 89705, 89707, 68126, and 76140.

68131. The governing boards and district governing boards may enter into agreements with appropriate agencies and institutions of higher education in other states and foreign countries providing for the exchange of students in higher educational institutions in this state and other states or countries pursuant to Sections 68124, 76140, and Chapter 10 (commencing with Section 66800) of Part 40 of this division.

68132. A person in continuous attendance at an institution who has resident classification on the operative date of this chapter shall not lose such classification as a result of this chapter until the attainment of the degree for which he is currently enrolled.

68133. If an action is brought against a governing board as the result of the application of this chapter that governing board shall inform the governing boards of the other institutions regarding the litigation. If an action is brought against a district governing board as a result of the application of this chapter that district governing board shall inform the Board of Governors of the California Community Colleges, who shall inform the Regents of the University of California, the Trustees of the California State University and

Colleges, and the Board of Governors of the California Maritime Academy regarding the pending litigation.

68134. No provision of this part shall be applicable to the University of California unless the Regents of the University of California, by resolution, make such provision applicable.

## PART 42. STUDENT FINANCIAL AID PROGRAM

### CHAPTER 1. FAMILY PHYSICIAN TRAINING PROGRAM

69270. The Legislature hereby finds and declares that physicians engaged in family practice are in very short supply in California. The current emphasis placed on specialization in medical education has resulted in a shortage of physicians trained to provide comprehensive primary health care to families. The Legislature hereby declares that it regards the furtherance of a greater supply of competent family physicians to be a public purpose of great importance and further declares the establishment of the program pursuant to this chapter to be a desirable, necessary and economical method of increasing the number of family physicians to provide needed medical services to the people of California. The Legislature further declares that it is to the benefit of the state to assist in increasing the number of competent family physicians graduated by colleges and universities of this state to provide primary health care services to families within the state.

The Legislature finds that the shortage of family physicians can be improved by the placing of a higher priority by public and private medical schools, hospitals, and other health care delivery systems in this state, on the recruitment and improved training of medical students and residents to meet the need for family physicians. To help accomplish this goal, each medical school in California is encouraged to organize a strong family practice program or department. It is the intent of the Legislature that such programs or departments be headed by a physician who possesses specialty certification in the field of family practice, and has broad clinical experience in the field of family practice.

The Legislature further finds that encouraging the training of primary care physician's assistants and primary care nurse practitioners will assist in making primary health care services more accessible to the citizenry, and will, in conjunction with the training of family physicians, lead to an improved health care delivery system in California.

Community hospitals in general and rural community hospitals in particular, as well as other health care delivery systems, are encouraged to develop family practice residencies in affiliation or association with accredited medical schools, to help meet the need for family physicians in geographical areas of the state with recognized family primary health care needs. Utilization of expanded resources beyond university-based teaching hospitals

should be emphasized, including facilities in rural areas wherever possible.

It is the intent of the Legislature to provide for a program designed primarily to increase the number of students and residents receiving quality education and training in the specialty of family practice and as primary care physician's assistants and primary care nurse practitioners and to maximize the delivery of primary care family physician services to specific areas of California where there is a recognized unmet priority need. This program is intended to be implemented through contracts with accredited medical schools, programs which train primary care physician's assistants and programs which train primary care nurse practitioners, hospitals, and other health care delivery systems based on per-student or per-resident capitation formulas. It is further intended by the Legislature that the programs will be professionally and administratively accountable so that the maximum cost effectiveness will be achieved in meeting the professional training standards and criteria set forth in this article.

This article may be cited as the "Song-Brown Family Physician Training Act."

69271. The term "family physician" as used in this article means a primary care physician who is prepared to and renders continued comprehensive and preventative health care services to families and who has received specialized training in an approved family practice residency for three years after graduation from an accredited medical school.

The terms "associated" and "affiliated," as used in this article, mean that relationship that exists by virtue of a formal written agreement between a hospital or other health care delivery system and an approved medical school which pertains to the family practice training program for which state contract funds are sought. This definition shall include such agreements which may be entered into subsequent to the effective date of this article as well as those relevant agreements which are in existence prior to the effective date of this article.

The term "commission," as used in this article, shall mean the Health Manpower Policy Commission.

The term "programs which train primary care physician's assistants" as used in this article shall mean a program which has been approved for the training of primary care physician's assistants pursuant to Section 2515 of the Business and Professions Code.

The term "programs which train primary care nurse practitioners" as used in this article shall mean a program for the training of primary care nurse practitioners which is operated by an approved medical school or which is affiliated with a school of nursing approved by the Board of Registered Nursing pursuant to Section 2786 of the Business and Professions Code.

69272. There is hereby created a state medical contract program with accredited medical schools, programs which train primary care

physician's assistants, programs which train primary care nurse practitioners, hospitals, and other health care delivery systems to increase the number of students and residents receiving quality education and training in the specialty of family practice and to maximize the delivery of primary care family physician services to specific areas of California where there is a recognized unmet priority need for such services.

69273. There is hereby created a Health Manpower Policy Commission. The commission shall be composed of nine members who shall serve at the pleasure of their appointing authorities:

(a) Six members appointed by the Governor, as follows: one representative of the University of California medical schools, from a nominee or nominees submitted by the University of California; one representative of the private medical schools accredited in California from individuals nominated by each of such schools; one representative of practicing family physicians; one representative of undergraduate medical students in a family practice program or residence in family practice training; one representative of trainees in a primary care physician's assistant program or a practicing physician's assistant; one representative of trainees in a primary care nurse practitioners program or a practicing nurse practitioner; and one representative of the State Department of Health, from nominees submitted by the director.

(b) Two consumer representatives of the public who are not elected or appointed public officials, one appointed by the Speaker of the Assembly and one appointed by the Chairman of the Senate Rules Committee.

(c) The Chief of the Health Manpower Development Section, or his designee, shall serve as executive secretary for the commission.

69273.5. The members of the commission, other than state employees, shall receive compensation of twenty-five dollars (\$25) for each day's attendance at a commission meeting, in addition to actual and necessary travel expenses incurred in the course of attendance at a commission meeting.

69274. The duties of the commission shall be:

(a) To determine specific areas of the state where unmet priority needs for primary care family physicians exist.

(b) To establish standards for family practice training programs and family practice residency programs and programs which train primary care physician's assistants and programs which train primary care nurse practitioners, including appropriate provisions to encourage family physicians and primary care physician's assistants and primary care nurse practitioners who receive training in accordance with this article to provide needed services in areas of unmet need within the state. Standards for family practice residency programs shall provide that all such residency programs contracted for pursuant to this article shall (i) meet the American Medical Association's "Essentials" for Residency Training in Family Practice, (ii) be approved by the Residency Review Committee for Family

Practice of the American Medical Association, and (iii) be affiliated or associated with accredited medical schools in California. Every program shall include a component of training designed for medically underserved multicultural communities, lower socioeconomic neighborhoods, or rural communities, and shall be organized to prepare family physicians or primary care physician's assistants or primary care nurse practitioners for service in such neighborhoods and communities. Medical schools receiving funds under this article shall have programs or departments that recognize family practice as a major independent specialty.

(c) To review and make recommendations to the Director of Health concerning the funding of family practice programs or departments, family practice residencies and programs for the training of primary care physician's assistants and primary care nurse practitioners which are submitted to the Health Manpower Development Section, for participation in the contract program established by this article. Where the commission determines that a program proposal which has been approved for funding or which is the recipient of funds under this article does not meet the standards established by the commission, it shall submit to the Director of Health and the Legislature a report detailing its objections. The commission may request the Department of Health to make advance allocations for program development costs from amounts appropriated for the purposes of this article.

(d) To establish contract criteria and single per-student and per-resident capitation formulas which shall determine the amounts to be transferred to institutions receiving contracts for the training of family practice students and residents and primary care physician's assistants and primary care nurse practitioner pursuant to this article. Institutions applying for or in receipt of contracts pursuant to this article may appeal to the director for waiver of these single capitation formulas. The director may grant such waiver in exceptional cases upon a clear showing by the institution that a waiver is essential to the institution's ability to provide a program of a quality comparable to those provided by institutions which have not received waivers, taking into account the public interest in program cost-effectiveness. Recipients of funds appropriated by this article shall, as a minimum, maintain the level of expenditure for family practice or physician's assistant training provided by such recipients during the 1973-74 fiscal year. Funds appropriated by this article shall be used to develop new programs or to expand existing programs and shall not replace funds supporting current family practice training programs. Institutions applying for or in receipt of contracts pursuant to this article may appeal to the director for waiver of this maintenance of effort provision. The director may grant such waiver if he determines that there is reasonable and proper cause to grant such waiver.

(e) To review and evaluate these programs regarding proper compliance with the provisions of this article and to submit annual

progress reports to the Legislature on or before September 30 of each year, commencing September 30, 1974. One standard for evaluation shall be the number of recipients who, after completing the program, actually go on to serve in areas of unmet priority needs in California.

69275. Pursuant to the provisions of this article, the Director of Health shall:

(a) Determine whether family practice, primary care physician's assistant training programs proposals, and primary care nurse practitioner training program proposals submitted to the Health Manpower Policy Commission for participation in the state medical contract program established by this article meet the standards established by the commission.

(b) Select and contract on behalf of the state with accredited medical schools, programs which train primary care physician's assistants, programs which train primary care nurse practitioners, hospitals, and other health care delivery systems for the purpose of training undergraduate medical students and residents in the specialty of family practice. Contracts shall be awarded to those institutions which best demonstrate the ability to provide quality education and training and to retain students and residents in specific areas of California where there is a recognized unmet priority need for primary care family physicians. Contracts shall be based upon the recommendations of the commission and in conformity with the contract criteria and program standards established by said commission.

(c) Be empowered to terminate, upon 30 days' written notice, the contract of any institution whose program does not meet the standards established by the commission or which otherwise does not maintain proper compliance with the provisions of this article, except as otherwise provided in contracts entered into by the director pursuant to this article.

69276. The Director of Health shall adopt, amend, or repeal such regulations as are necessary to enforce the provisions of this article, which shall include criteria which training programs must meet in order to qualify for waivers of single capitation formulas or maintenance of effort requirements authorized by Section 31913.5. Regulations for the administration of this article shall be adopted, amended, or repealed as provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

## CHAPTER 2. STUDENT FINANCIAL AID PROGRAMS

### Article 1. Purposes

69500. The Legislature finds and declares that:

(a) Student assistance programs have the primary purpose of providing equal opportunity and access to postsecondary education for persons of both sexes, and all races, ancestries, incomes, ages, and

geographies in California;

(b) Student aid programs should enhance the ability of individuals to choose the most appropriate postsecondary educational opportunity and among different institutions;

(c) Student aid programs should assist students to progress through the educational program in accordance with the individual's educational objectives;

(d) Student aid programs should provide assistance to individuals who desire to enroll in an independent college or university;

(e) Student aid programs should, furthermore, complement more general statewide goals for public postsecondary education;

(f) State purposes regarding student aid programs should complement the purposes of federal student assistance programs so as to enhance the effectiveness of state programs; the state's purposes mentioned above serve to enhance the purposes of the Federal Basic Educational Opportunity Grant Program.

## Article 2. The Student Aid Commission

69510. The State Scholarship and Loan Commission is hereby renamed the Student Aid Commission, and shall be composed of the following 11 members:

(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.

(b) One representative from a California independent college or university.

(c) One representative each from the University of California, the California State University and Colleges, and the California community colleges.

(d) Two members each of whom must be a student enrolled in a California postsecondary educational institution at the time of appointment.

(e) Three public members.

(f) One representative from a California secondary school.

69511. (a) Each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have two-year terms.

(b) One student representative shall be appointed by the Governor and one shall be appointed by the Speaker of the Assembly. Such appointments shall be effective January 1, 1976.

(c) The member appointed pursuant to subdivision (a) of Section 69510 shall be appointed effective January 1, 1976, by the Senate Rules Committee.

(d) The member appointed pursuant to subdivision (f) of Section 69510 shall be appointed effective January 1, 1976, by the Governor.

(e) At no time shall both student representatives be enrolled in a California independent college or university or the University of California or the California State University and Colleges or a California community college.

(f) Current members of the State Scholarship and Loan Commission shall serve on the commission for the remainder of the terms for which they were appointed, and such members may be reappointed. Notwithstanding Section 69510, the commission shall consist of 13 members in 1976, 12 members in 1977, 1978, and 1979, and 11 members thereafter.

(g) Vacancies on the commission shall be filled by the Governor, the Speaker of the Assembly, or the Senate Rules Committee, on a rotating basis as such vacancies occur. The Governor, the Speaker of the Assembly, and the Senate Rules Committee shall fill the first, second, and third vacancies, respectively. Such order of rotating the appointments to the commission shall be maintained thereafter. Appointments to fill vacancies shall be made in consultation with postsecondary educational institutions and student groups.

(h) The member appointed pursuant to subdivision (a) of Section 69510 shall be appointed from a list of nominees submitted jointly by the California Advisory Council on Vocational Education and Technical Training and the Council for Private Postsecondary Educational Institutions. The member appointed pursuant to subdivision (b) of Section 69510 shall be appointed from a list of nominees submitted by an association or associations of independent California colleges and universities. The members appointed pursuant to subdivision (c) of Section 69510 shall be appointed from lists of nominees each submitted by the Regents of the University of California, the Trustees of the California State University and Colleges, and the Board of Governors of the California Community Colleges, respectively. The members appointed pursuant to subdivision (d) of Section 69510 shall be appointed from lists of nominees submitted by student organizations. No list of nominees as specified in this subdivision shall contain less than three names.

(i) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of such program within a state by a state agency, the Student Aid Commission, as established by Section 69510, shall administer such act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under such act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

The commission shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan for development and administration of any such federal scholarship or grant program within the state.

Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

Before adopting a state plan the Student Aid Commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

69512. The members of the commission shall select a chairman from the members of the commission at any meeting which is the first meeting held after there has been a change in membership.

69513. The commission shall appoint a director who shall be the chief executive officer for the commission, and shall serve at the pleasure of the commission. The Legislature hereby requests the commission to designate such executive officer as the person holding the position confidential to it, within the meaning of subdivision 5, of Section 4, Article XXIV of the Constitution.

The commission may employ such other employees as it deems necessary to carry out its functions under this chapter.

69514. The commission shall:

(a) Report on or before January 1, 1978, and every two years thereafter, the impact and effectiveness of state-funded programs; the commission shall utilize common criteria in determining the impact of these programs, and shall have the authority to obtain any data from postsecondary educational institutions necessary for such reports.

(b) Collect and disseminate data concerning the financial resources and needs of students and potential students, and the scope and impact of existing state, federal, and institutional student aid programs.

(c) Report on or before January 1, 1977, and every other year thereafter, the aggregate financial need of individuals seeking access to postsecondary education and the degree to which current student aid programs meet this legitimate financial need.

(d) Develop and report annually to the Legislature, the Governor, postsecondary educational institutions, and the California Postsecondary Education Commission the criteria utilized in distributing available student aid funds;

(e) Expend six dollars (\$6) for each authorized Cal Grant for the purpose of disseminating information about all institutional, state, and federal student aid programs to potential applicants. Such distribution of information shall primarily focus on potential applicants with the greatest financial need.

69515. As used in this division, "commission" means the Student Aid Commission created by this chapter.

### Article 3. California Educational Opportunity Grant Program

69530. The Legislature finds and declares that:

(a) The enactment of the Federal Basic Educational Opportunity Grant Program requires substantial changes in current state student aid programs if state programs are to effectively supplement federal student assistance.

(b) The entire student aid system, due to a proliferation of programs has resulted in substantial confusion and inefficiencies.

(c) One statewide student assistance program supplementary to the Federal Basic Educational Opportunity Grant Program would increase simplicity and effectiveness.

69531. There is hereby established a state educational opportunity grant program, which shall be known as the California Educational Opportunity Grant program or "Cal Grant." No new awards shall be granted under the provisions of Chapter 4 (commencing with Section 69560), 5 (commencing with Section 69580), or 6 (commencing with Section 69600) of this division after the 1976-1977 fiscal year.

69532. There shall be 20,425 new Cal Grant awards for first-time recipients for the 1977-1978 fiscal year and each year thereafter, except that new scholarships in subdivision (a) in excess of 4.25 percent of the number of high school graduates of the previous fiscal year, in subdivision (b) in excess of 3,100, and in subdivision (c) in excess of 700 shall not be awarded unless there are federal student financial aids funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards or unless the Legislature acts in the future to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal. Such grants shall be allocated as follows:

(a) 14,900 awards for the 1977-1978 fiscal year, and each fiscal year thereafter, to be utilized for tuition and student fees pursuant to Section 40405.

(b) 4,550 awards for the 1977-1978 fiscal year and each fiscal year thereafter, to be utilized for tuition, student fees, and subsistence costs pursuant to Section 40406.

(c) 975 awards for the 1977-1978 fiscal year and each fiscal year thereafter, to be utilized for occupational or technical training pursuant to Sections 69539 through 69543.

69533. Cal Grant awards authorized pursuant to Section 69532 shall be defined as full-time equivalent grants. Awards to part-time students shall be a fraction of a full-time grant, as determined by the commission.

69534. The commission, in consultation with postsecondary institutions, shall develop and make available a single, common application form and a single, common financial statement, so that by July 1, 1977, the form shall be utilized for the Cal Grant program, all other programs funded by the state or a public institution of postsecondary education, and all federal programs administered by a public institution of postsecondary education. Supplemental forms may be utilized if such forms are essential to accomplishing the objectives of individual programs, as determined by the commission. All supplemental forms utilized by public postsecondary educational institutions must be approved by the commission, and such forms shall be identical for programs with similar objectives, as determined

by the commission. Public postsecondary institutions may decide whether or not to use the single common application form and the single common financial statement for funds provided by private donors.

69535. Cal Grant awards shall be based upon the financial need of the applicant, but for the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants. The level of financial need of each applicant shall be determined by the commission, taking into account the financial resources of the applicant and the applicant's family. All Cal Grant recipients shall be residents of California, as determined by the commission, and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission. Part-time students shall not be discriminated against in the award of Cal Grants, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. Cal Grants shall be awarded without regard to race, religion, creed, sex, or age. First-time Cal Grant recipients who are part-time students shall be eligible for a full-time renewal award. No applicant shall receive more than one type of Cal Grant award concurrently. A Cal Grant recipient shall be a citizen of the United States or, if he is under 21 years of age and not a citizen of the United States, either he or his parent or parents must have been admitted to the United States on a permanent resident visa.

The Student Aid Commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer terms, sessions, or quarters. The Student Aid Commission may provide by appropriate rules and regulations for such reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as it may deem proper.

The Student Aid Commission may establish Cal Grants in one hundred dollar (\$100) increments.

69536. A Cal Grant award for tuition and student fees as provided in subdivision (a) of Section 69532 may be utilized at any California postsecondary educational institution or program eligible to participate in the Federal Basic Educational Opportunity Grant Program, or any institution recognized as a candidate for accreditation by the Western Association of Schools and Colleges or approved under the requirements of paragraph (2) of subdivision (a) of Section 94310, provided that such award may not be utilized by a student enrolled in an instructional program of less than two years. No such award may exceed the cost of tuition and fees, and

shall in no event exceed the sum of two thousand seven hundred dollars (\$2,700). Such awards may not be utilized for graduate study, and may be renewed for a total of four years of full-time attendance in an instructional program or an equivalent thereof, provided that financial need continues to exist.

69537. An individual who is awarded a Cal Grant award authorized pursuant to subdivision (a) of Section 69532 and enrolls in a public community college may elect to have the award held in trust for him for a period not to exceed two academic years, except that the commission may extend the period in which his award may be held in trust up to a period of three academic years if, in the commission's judgment, the student's rate of academic progress has been as rapid as could be expected for the personal and financial conditions which the student has encountered. The commission shall, in such case, hold the award in trust, to be granted to the award winner upon receipt of his request therefor within such period, provided that at the time of making the request he meets all of the requirements of this chapter. Upon receipt of the request the commission shall assess or reassess the financial needs of the award winner. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. The commission may award to another eligible individual any award being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the commission, to the end that all authorized awards are being continually utilized. Following the first year for which any such award is made, such awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

69538. To be eligible for a Cal Grant award for tuition, student fees, and subsistence costs as provided in subdivision (b) of Section 69532 the student shall be a disadvantaged student under criteria to be established by the commission, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions which tend to make difficult the gaining access to and persisting in postsecondary programs. Such awards may be utilized for tuition, student fees, living expenses, transportation, supplies, and books.

The Legislature recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students, and it is the intent of the Legislature that the additional opportunities for higher education provided pursuant to this chapter shall be initiated primarily on the public community college level.

Grants awarded under this chapter shall be for living expenses, transportation, supplies and books, according to the student's financial need, and shall not be in excess of one thousand one hundred dollars (\$1,100) per academic year. The Student Aid Commission may also award such grants and an additional amount

to pay tuition and fees to attend college at a public or private four-year college or university. Any eligible student who has been awarded an initial grant on the basis of need and attendance at a public community college may transfer to another eligible college without being eliminated from the program. In such cases, no adjustments to the initial grant shall be made for tuition and fees.

In no case shall Cal Grant awards exceed the sum of three thousand four hundred dollars (\$3,400), and such awards may not be utilized for graduate study. The awards may be utilized at any California postsecondary educational institution or program eligible to participate in the Federal Basic Educational Opportunity Grant Program, or any institution recognized as a candidate for accreditation by the Western Association of Schools and Colleges or approved under the requirements of paragraph (2) of subdivision (a) of Section 94310, provided that such award may not be utilized by a student enrolled in an instructional program of less than nine months. The awards may be renewed for a total of four years of full-time attendance in an instructional program or an equivalent thereof, provided that financial need continues to exist.

69539. A Cal Grant award pursuant to subdivision (c) of Section 69532 shall be utilized for occupational or technical training in any California institution or program eligible to participate in the Federal Basic Educational Opportunity Grant Program, or any institution recognized as a candidate for accreditation by the Western Association of Schools and Colleges or approved under the requirements of paragraph (2) of subdivision (a) of Section 94310. As used in this section, "occupational or technical training" shall mean that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

69540. The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

69541. The recipients of such grants for occupational or technical training shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall such grants exceed two calendar years, except that recipients enrolled in three-year, hospital-based programs to train licensed registered nurses may receive grants for a maximum of three calendar years. The average annual grant for recipients enrolled in three-year, hospital-based programs to train nurses shall not exceed in amount the average annual grant for two-year nursing programs. No grant shall be awarded for a course of training of less than four months duration.

69542. Grants awarded for occupational or technical training shall be for institutional fees, charges, and other costs in the nature of tuition, not to exceed two thousand dollars (\$2,000) for the calendar year, plus up to five hundred dollars (\$500) for

training-related costs, such as special clothing, local transportation, required tools, equipment, supplies and books, according to the student's financial need. In determining the amount of grants and training-related costs, the commission shall take into account other state and federal programs available to the applicant.

69543. Grants for occupational or technical training shall be awarded in areas of manpower need as determined by the commission after consultation with appropriate state and federal agencies.

69544. The commission from time to time shall adopt such rules and regulations as it may determine, not in conflict with this chapter, as may be necessary or appropriate for effectuating the provisions of this chapter.

69545. If any section, subdivision, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this chapter, and each section, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subdivisions, sentences, clauses or phrases be declared unconstitutional.

69546. The Student Aid Commission shall each year recommend to the Legislature concerning the allocation of funds from the federal state student incentive grant program and the programs authorized in subdivisions (a), (b), and (c) of Section 69532.

69547. As used in this division, "part-time student" means a student who is enrolled in not less than one-half of the course load of a full-time student as determined by the commission.

#### Article 4. Competitive Scholarship Program

69560. The Legislature hereby declares that it regards the collegiate education of its qualified citizens to be a public purpose of great importance; and further declares the establishment of competitive scholarships pursuant to this chapter to be a desirable and economical method of furthering this public purpose. The Legislature has come to the conclusion that the benefit to the state in assuring the development of the talents of its qualified citizens will bring tangible benefits to the state in the future.

The Legislature further declares that there is an urgent need at present for the establishment of a state scholarship program, and that the most efficient and economical way to meet this need is through the plan prescribed in this chapter.

The Legislature further declares that it does not intend that this chapter be construed as granting any present or future right to the Legislature, or any other instrumentality of the state, to control or influence the policies of any educational institution involved in the state scholarship program.

69561. There are hereby created state competitive scholarships

which shall be maintained by the state and awarded and administered pursuant to this chapter, and used by the award winner for undergraduate higher education study.

69562. State competitive scholarships shall be awarded without regard to race, religion, creed, national origin or ancestry, or sex.

69563. No person shall be awarded a scholarship unless:

(a) He is a resident of California as determined under the provisions of this code for determining the resident status of a student of a state college for the purposes of state college admission fees and rates of tuition. Wherever such provisions refer to the trustees the reference shall, for the purposes of this section, be deemed to be to the commission, any reference to "the opening day of a semester during which a person proposes to attend a state college" shall be deemed to be the day upon which a person will receive a scholarship as determined by the commission, and any reference to "immediately prior to first entering any California institution of higher learning" shall be deemed to be immediately prior to the day upon which a person will receive a scholarship, as determined by the commission.

(b) He has graduated from high school or has been accepted for admission by an accredited college.

(c) He has demonstrated his financial need for such scholarship. The financial status of his parents shall be taken into consideration in determining his financial need.

(d) He has demonstrated high moral character, good citizenship, and dedication to American ideals.

(e) He has applied for a state competitive scholarship and has, by competitive examination, been determined to be eligible for such scholarship.

(f) He has complied with all of the rules and regulations adopted by the commission for the award, regulation, and administration of state competitive scholarships adopted pursuant to this chapter.

(g) He is a United States citizen; if he is under 18 years of age and is not a United States citizen, his parent or parents shall have a permanent resident visa.

69564. There shall be available for the 1975–1976 fiscal year such scholarships in an amount equal to 4.25 percent and for the 1976–1977 fiscal year such scholarships in the amount equal to 4.625 percent of the number of California high school graduates of the previous year, plus such scholarships for all state scholarship winners who meet all standards for renewal of their awards prescribed by the Education Code and by regulations of the commission, except that new scholarships in excess of 4.25 percent of the number of high school graduates shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

69565. A scholarship award winner may use his scholarship at any one of the institutions of collegiate grade located in California if such institution offers a two-year junior college or four-year college course and is accredited or accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges. Nothing contained in this chapter shall be interpreted to require any such institution to admit into such institution, or once admitted to continue in such institution, an award winner.

69566. Each competitive scholarship is for the period of one academic year and the award shall be for three hundred dollars (\$300) to not to exceed two thousand seven hundred dollars (\$2,700) in one hundred dollar (\$100) amounts at the college the award winner will attend, as required by applicant's financial need, as determined by the commission, but in no event in excess of an amount equal to the tuition or necessary fees, or both tuition and fees, for the academic year, including summer terms, sessions, or quarters of the institution at which the scholarship is used. No competitive scholarship awarded to an applicant under this section for the period of one academic year shall exceed the total amount of two thousand seven hundred dollars (\$2,700); except that the commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student would receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer terms, sessions, or quarters. The commission may provide by appropriate rules and regulations for such reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as it may deem proper. A competitive scholarship may be renewed annually without an additional competitive examination until the award winner has received four annual awards or until he has been graduated from such an institution in an undergraduate course, whichever is the earlier, provided that at or prior to such renewal the commission shall reassess the financial needs of such award winner and establish the amount of the award within the limits prescribed by this section. The scholarship shall remain in effect only during the period that the award winner achieves satisfactory academic progress and is regularly enrolled as a full-time student in an institution of collegiate grade, as described in Section 69565.

69567. Notwithstanding the provisions of Section 41007 the award may be granted and renewed during the first four years of full-time college attendance following first admission to college, as defined by the commission.

69568. In any instance where the commission shall deem necessary, a competitive scholarship may be granted for a single semester or quarter or for two quarters of an academic year, and the award payment therefor shall be prorated accordingly. In any event

a scholarship is vacated by virtue of the award winner withdrawing from college, the commission may award the scholarship to another fully qualified student who has met all the requirements for a scholarship.

In any instance when a student who has been awarded a state scholarship attends a college at which the normal course of study, as announced by the college, for the baccalaureate degree is completed in three years rather than four years, the commission may increase the amount of the annual award authorized in Section 69566 by up to one-third. In no event shall the scholarship of a student enrolled in a baccalaureate degree program of three years' duration exceed in the aggregate the total amount he would have received if enrolled in a four-year baccalaureate degree program.

69569. An individual who is awarded a competitive scholarship and enrolls in a public community college may elect to have the scholarship held in trust for him for a period not to exceed two academic years, except that the commission may extend the period in which his scholarship may be held in trust up to a period of three academic years if, in the commission's judgment, the student's rate of academic progress has been as rapid as could be expected for the personal and financial conditions which the student has encountered. The commission shall, in such case, hold the scholarship in trust, to be granted to the award winner upon receipt of his request therefor within such period, provided that at the time of making the request he meets all of the requirements of this chapter. Upon receipt of the request the commission shall assess or reassess the financial needs of the award winner. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. The commission may award to another eligible individual any scholarship being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the commission, to the end that all authorized scholarships are being continually utilized. Following the first year for which any such scholarship is awarded, awards thereof shall be included in the number of the continuing scholarships available for any year and not the authorized new scholarships for the year.

69570. The commission shall require all applicants to take a test administered under secure conditions on a national or statewide test date and acceptable for admission purposes at a college or university eligible to participate in the state scholarship program. In deciding upon the use of one or more tests which meet the conditions specified in this chapter, the commission shall appoint a panel of five psychologists or psychometrists who shall report to the commission on the appropriateness of each of the tests for scholarship purposes. If more than one test meets the conditions specified in this chapter, the panel shall also investigate and report to the commission its findings concerning the comparability of the tests. On the basis of the results of such examinations, plus other academic criteria which the

commission may require, the commission shall determine the award winners for the next ensuing academic year. Such commission also shall determine which of the current award winners are making satisfactory academic progress and are entitled to an annual renewal of their scholarships.

69571. The commission from time to time shall adopt such rules and regulations as it may determine, not in conflict with this chapter, as may be necessary or appropriate for effectuating the provisions of this chapter.

69572. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

69573. This chapter shall be effective until June 1, 1982, and on such date is repealed.

#### Article 5. College Opportunity Grant Program

69580. (a) The Legislature finds and declares that because of financial and home and community environmental conditions numerous students with substantial potential for success in college and for future leadership in the community are unable to pursue a higher education and attain their full educational potential. It further recognizes that to effectively combat the forces which prevent these students from pursuing a higher education different programs and methods must be tried. There is hereby created a state financial assistance program to be known as the "College Opportunity Grant Program." It is the purpose of this program to provide financial assistance for undergraduate study to disadvantaged students who are not necessarily able to avail themselves of present state competitive scholarships by the use of conventional selection methods, pursuant to Chapter 4 (commencing with Section 69560) of this part.

(b) The Legislature further recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students.

69581. The College Opportunity Grant Program shall be a program administered by the commission, which shall adopt rules and regulations necessary or appropriate to effectuate the provisions of this chapter and may use experimental methods and subjective judgments as well as conventional selection methods.

69582. There shall be 3,100 new grants available for the 1975-1976 fiscal year and 4,550 new grants available for the 1976-1977 fiscal year, except that new grants in excess of 3,100 shall not be awarded

unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

69583. The recipients of such grants shall be eligible for renewal of their awards until they have completed an A.B. degree or its equivalent in conformance with the terms prescribed by the commission, which terms shall not be in conflict with this chapter. Such grants may be awarded to eligible students who attend public community colleges for vocational purposes terminating with a two-year course of study. Such grants may be utilized at summer quarters or terms; provided, that the aggregate amount of aid received over a four-year period may not be increased as a result of attending a summer term.

69584. To be eligible for a grant under this chapter, a student shall meet all of the following:

(a) Be a disadvantaged student under criteria to be established by the commission, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions which tend to make difficult the gaining access to and persisting in postsecondary programs.

(b) Be in need of financial assistance to attend college.

(c) Have demonstrated substantial potential for successfully participating at an institution of higher education and for future leadership in the community.

(d) Be a resident of the State of California, as defined in Article 5 (commencing with Section 68060) of Chapter 1 of Part 41.

(e) Be a citizen of the United States or have been admitted to permanent residence.

(f) Be admitted to and enrolled in a California public community college either accredited by or accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges, or be admitted to and enroll in a California public or private college accredited by the Western Association of Schools and Colleges as a full-time undergraduate student.

(g) Maintain satisfactory progress toward a degree and eligibility as defined by the commission.

69585. Grants awarded under this chapter shall be for living expenses, transportation, supplies and books, according to the student's financial need, and shall not be in excess of one thousand one hundred dollars (\$1,100) per academic year. The commission may also award such grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university. Any eligible student who has been awarded an initial grant on the basis of need and attendance at a public community college may transfer to another eligible college without being eliminated from the program. In such cases, no adjustments to the initial grant shall be made for tuition and fees.

69586. The commission shall submit to the Legislature at each regular session, an evaluation of the operation of the College Opportunity Grant Program.

69587. The commission is hereby authorized to accept and receive any federal funds made available under any act of Congress for purposes of this chapter, and to participate in any federal program under such act of Congress in order to secure such funds. The commission shall assist any person eligible for a grant under this chapter to secure or obtain any scholarships or loans which such person might be eligible to receive, in order to minimize the expense of this program to the State of California.

69588. This chapter shall be effective until June 1, 1981, and on such date is repealed.

#### Article 6. Occupational Education and Training Grant Program

69600. The Legislature hereby finds that there are students who have the aptitude and desire to train for specific occupations, vocations or technical careers, but do not have financial resources to enter public or private training programs and that a greater supply of competent, technically trained, skilled manpower in critical occupations is a public purpose of great importance; and, further, that the establishment of a program pursuant to this chapter is a desirable, necessary, and economical method of aiding such students and strengthening the economic base of the state.

69601. There is hereby created a state competitive occupational education and training grant program, with grants to be provided by the state and administered by the commission.

Occupational education and training grants shall be awarded without regard to race, creed, national origin or ancestry, or sex.

69602. To be eligible for an occupational education and training grant under this chapter, an applicant shall meet all of the following requirements:

(a) Be a resident of the State of California, as defined in Article 5 (commencing with Section 68060) of Chapter 1 of Part 41.

(b) Be a citizen of the United States or have been admitted to permanent residence.

(c) Demonstrate occupational achievement or aptitude and financial need. In determining occupational achievement or aptitude, the commission may use acceptable testing procedures to the extent these are available. In determining financial need of an applicant, the commission shall expect each student to make a self-help contribution toward occupational or technical training costs and the financial status of his parents shall be taken into consideration.

(d) Use his grant for occupational or technical training in California in institutions either accredited or accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges or by a national accrediting association

recognized by the United States Office of Education. As used in this section, "occupational or technical training" shall mean that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission, which shall include three-year hospital-based programs to train licensed registered nurses approved by the Board of Registered Nursing.

(e) Have applied for a state occupational education and training grant and have met the criteria established by the commission for eligibility for such grant.

(f) Have complied with all of the rules and regulations adopted by the commission for the award, regulation, and administration of state occupational education and training grants adopted pursuant to this chapter.

69603. The commission shall adopt rules and regulations necessary or appropriate to effectuate the provisions of this chapter.

The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants.

The commission shall seek the aid and advice of a committee of nine members appointed by the commission and composed of individuals who shall be representatives of both proprietary and public institutions and who shall be knowledgeable in the area of occupational and technical education and training. At least a majority of the members of the committee shall be actively working or otherwise involved in the area of occupational and technical education and training.

69604. There shall be 700 new grants for the 1975-1976 fiscal year and 975 new grants for the 1976-1977 fiscal year, except that new grants in excess of 700 shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

69605. The recipients of such grants shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall such grants exceed two calendar years, except that recipients enrolled in three-year, hospital-based programs to train licensed registered nurses may receive grants for a maximum of three calendar years; nor shall such grants be awarded for a course of training of less than six weeks duration.

69606. Grants awarded under this chapter shall be for institutional fees, charges, and other costs in the nature of tuition, not to exceed two thousand dollars (\$2,000) for the calendar year, plus up to five hundred dollars (\$500) for training-related costs, such as special clothing, local transportation, required tools, equipment, supplies and books, according to the student's financial need. In determining the amount of grants and training-related costs, the

commission shall take into account other state and federal programs available to the applicant.

69607. Grants shall be awarded in areas of manpower need as determined by the commission after consultation with appropriate state and federal agencies.

69608. Prior to awarding grants under this chapter, the commission shall adopt procedures for evaluation of the occupational education and training grant program. In determining these procedures, the commission shall consider the advisability of limiting either the number of occupational programs or the number of geographic areas or both to facilitate evaluation.

69609. Nothing in this chapter shall be interpreted to require any institution to admit an award winner into such institution, or to continue him once he is admitted.

69610. The commission shall submit to the Legislature on the fifth legislative day of each calendar year an evaluation of the operation of the occupational education and training grant program.

69611. This chapter shall be effective until June 1, 1980, and on such date is repealed.

#### Article 7. California State University and Colleges Educational Opportunity Program

69620. There is a state student assistance program which shall be known as the State University and Colleges Educational Opportunity Program. It shall be the purpose of the program to provide educational assistance and grants for undergraduate study at the California State University and Colleges to students who are economically disadvantaged or educationally and economically disadvantaged, but who display potential for success in accredited curricula offered by the California State University and Colleges.

For the purposes of this chapter:

(a) "Trustees" means the Trustees of the California State University and Colleges.

(b) "Educational agency" means an agency, other than a federal agency, which is supported in whole or in part by funds appropriated for educational purposes.

(c) "State agency" means every state office, officer, department, division, bureau, board, and commission.

(d) The residence of a recipient shall be determined in accordance with the rules for determining residence prescribed by Chapter 1 (commencing with Section 68000) of Part 41 and Article 1 (commencing with Section 89700) of Chapter 6 of Part 52 of this code.

69621. California State University and Colleges Educational Opportunity Program grants may be awarded to persons selected for enrollment in programs authorized by the trustees according to the procedures established by the trustees, provided that they are residents of this state, are high school graduates or have, pursuant to

such procedures, equivalent qualifications, and have been nominated by their high school, the Veterans Administration, a state agency or educational agency designated by the trustees, or a state university or college president. The trustees shall determine eligibility for grants awarded pursuant to this chapter. Such grants may be granted and renewed according to standards set by the trustees until the student has received a baccalaureate degree or has completed four academic years, whichever occurs first. In special circumstances, such as illness or military service, or family hardship, the trustees may renew the grant beyond the fourth year of study, provided the student has not received a baccalaureate degree. When the recipient is an enrollee in a special educational opportunity program approved by the trustees, for the purposes of this chapter, the state university or college sponsoring the program shall receive from the trustees reimbursement of up to sixty dollars (\$60) per month per enrollee up to 12 months support.

69622. Grants shall be provided for students who display potential for success in accredited curricula offered by the California State University and Colleges, but lack the necessary funds to pay for tuition, books, and room and board, provided such students meet the standards of the state university or college which they are attending or the requirements for the special admissions program established by the trustees.

69623. Grants awarded pursuant to this chapter shall be in an amount sufficient to pay the costs of a student, during his course of study, for tuition, books, and room and board in accordance with his needs as shall be determined by the trustees. No student shall be awarded a grant in excess of seven hundred dollars (\$700) per academic year.

69624. Each high school in this state may nominate to the trustees students it deems deserving of the grants made available under this chapter. The trustees shall compile a list of students so nominated from which it may select students for grants in accordance with standards set by the trustees pursuant to this chapter. The Veterans Administration, state agencies and educational agencies and California State University and Colleges presidents may nominate persons whom they deem eligible for such grants.

69625. Records of the academic progress of each student attending a campus of the California State University and Colleges under a grant shall be kept by each campus of the California State University and Colleges having a program and forwarded to the trustees in order that the program created by this chapter may be evaluated.

69626. Each campus of the California State University and Colleges may submit plans for a special educational opportunity program for approval by the trustees. Each program qualifying shall be authorized a program director and may be authorized such special qualified counselors and advisers and such related operating and equipment support as is appropriate.

69627. This chapter shall be known as the California State University and Colleges Educational Opportunity Act.

Article 8. Community College Extended Opportunity Programs and Services

69640. It is the intent of the Legislature that the California community colleges recognize the need and accept the responsibility for extending the opportunities for community college education to all who may profit therefrom regardless of economic, social and educational status. It is the intent and purpose of the Legislature to encourage local community colleges to establish and develop programs directed to identifying those students affected by language, social, and economic handicaps to establish and develop services, techniques, and activities directed to the recruitment of such students to and their retention in community colleges and to the stimulation of their interest in intellectual, educational and vocational attainment.

The Legislature finds that the establishment and development of extended opportunity programs and services are essential to the conservation and development of the cultural, social, economic, intellectual and vocational resources of the state.

69641. An "extended opportunity program or service" is an undertaking by a community college, to be taught by instructors approved by the governing board, in the form and in accordance with procedures prescribed by this article, which is over, above, and in addition to, the regular educational programs of the college, having as its purpose the provision of positive encouragement directed to the enrollment of students handicapped by language, social, and economic disadvantages, and to the facilitation of their successful participation in the educational pursuits of the college. Participation in an extended opportunity program or service shall not preclude participation in any other program which may be offered in the college.

69642. Definitions:

(a) "District" means any community college district in California that maintains one or more community colleges.

(b) "College" means a community college established by the governing board of a community college district authorized to provide community college instruction.

(c) "Extended opportunity program" means a special program or method of instruction designed to facilitate the language, educational or social development of a student and increase his potential for success in the college.

(d) "Extended opportunity services" means a program of assistance designed to aid students with socioeconomic handicaps to permit them to enroll in and participate in the educational activities of the college.

(Amended by Stats 1976, Ch. 1011.)

## [ORIGINAL SECTION]

**69642** Definitions.

(a) "Board" means the Board of Governors of the California Community Colleges as created by Articles 1 and 3 and Sections 71090 to 71028 of Chapter 1 of Part 44

(b) "District" means any community college district in California that maintains one or more community colleges.

(c) "College" means a community college established by the governing board of a community college district authorized to provide community college instruction.

(d) "Extended opportunity program" means a special program or method of instruction designed to facilitate the language, educational or social development of a student and increase his potential for success in the college.

(e) "Extended opportunity services" means a program of assistance designed to aid students with socioeconomic handicaps to permit them to enroll in and participate in the educational activities of the college

**69643.** There is in the state government the Advisory Committee on Extended Opportunity Programs and Services. It shall be comprised of nine members appointed by the board, two members appointed by the Speaker of the Assembly and two members appointed by the Senate Committee on Rules. The nine members appointed by the board shall serve for four-year terms, except the first term of each shall be determined by lot at the first meeting of the board. Three shall serve for four years, three shall serve for three years, and three shall serve for two years. The two members appointed by the Speaker of the Assembly and the two members appointed by the Senate Committee on Rules shall serve at the pleasure of the respective appointing powers.

**69644.** The chairman and vice chairman of the committee shall be designated by the board from among the members appointed by the board.

**69645.** The members of the committee shall serve without compensation, but shall be reimbursed for necessary traveling and other expenses incurred in performing their duties and responsibilities.

**69646.** The committee shall serve as an advisory body to the board, shall formulate and present such policy recommendations as it determines will effect statewide establishment and conduct of community college programs of extended opportunities and services, shall review annually and report to the board the progress made under this article with the California community colleges toward the extension of educational opportunities for all students who may profit from instruction, and make other recommendations to implement the provisions of this article. The chancellor of the community colleges shall be executive secretary of the committee, shall report to the board on the actions of the committee, and at the recommendation of the committee and its direction shall make recommendations to the board pursuant to this article.

**69647.** All meetings of the committee shall be open and public, and all persons shall be permitted to attend any meeting of the committee.

**69648.** The board shall adopt rules and regulations necessary to

implement the provisions of this article including rules and regulations which:

(a) Prescribe the procedure by which a district shall identify a student eligible for extended opportunity programs or services.

(b) Establish minimum standards for the establishment and conduct of extended opportunity programs and services.

(c) Require the submission of such reports by districts as will permit the evaluation of the program and services offered.

69649. The governing board of a community college district may, with the approval of the board, establish an extended opportunity program. Such program may include, but need not be limited to:

(a) The provision of tutorial services.

(b) The establishment of remedial and developmental courses.

(c) The establishment of a program of multicultural studies.

(d) The provision of counseling services.

(e) The provision of recruitment services.

69650. The governing board of a community college district may, with the approval of the board, establish extended opportunity services. Such services may include, but need not be limited to:

(a) Loans or grants to meet living costs or a portion thereof.

(b) Loans or grants to meet the cost of student fees.

(c) Loans or grants to meet cost of transportation between home and college.

(d) The provision of scholarships.

(e) Work-experience programs.

(f) Job placement programs.

69651. The governing board of a community college district may use any funds under its control not specified to be used for another particular purpose for the programs and services authorized by Sections 69649 and 69650, the administration of such programs and services, and may use such funds to meet the matching requirements to receive federal funds, or funds granted by nonprofit foundations, designated for the same purposes.

69652. The governing board of a community college district may apply to the board for an allowance to meet all or a portion of the cost of establishing and operating extended opportunity programs or services authorized by this article. The application shall contain a detailed plan or plans for use of the allowance. The plan or plans shall be submitted in accordance with rules and regulations adopted by the board. The board may also adopt rules and regulations relating to the form and content of applications and procedures for review, evaluation, and approval thereof.

69653. Applications shall be subject to the approval of the board. Upon approval by the board, it shall certify an apportionment or apportionments to the Controller. The Controller shall draw warrants on the State Treasury in the amounts certified in favor of the county treasurer of the county which has jurisdiction over the applicant district in accordance with a schedule of payments established by the board and approved by the Department of

Finance. The county treasurer shall immediately credit the general fund of the applicant school district exactly as apportioned by the board.

69654. The board shall review the need for state funds to carry out the purposes of this chapter and shall include an estimate of such need in its budget for each year.

#### Article 9. Fellowships for Graduate Study

69670. There is hereby created a state competitive graduate fellowship program with fellowships to be provided by the state and used by award winners for graduate study in colleges and universities located in California and accredited by the Western Association of Schools and Colleges, or in a professional school with a program leading to a graduate level professional law degree which is located in California and which is accredited pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code. As used in this section "graduate study" shall mean that phase of education coming after the completion of the baccalaureate degree and leading toward a recognized graduate or professional degree. Awards shall be granted to students with academic ability and financial need. The financial status of the applicant's parents shall be taken into consideration in determining the applicant's financial need. In determining the financial need of an applicant, the commission shall also expect each student to make a self-help contribution toward college costs through loans or employment or a combination of loans and employment.

69671. The general purpose of the fellowship program is to afford opportunity for graduate study to unusually able persons. The awards shall be tenable for graduate work in the sciences, social sciences, humanities, the arts, mathematics, engineering, business, education, and any other graduate or professional field determined by the commission to be appropriate.

69672. The Legislature finds and declares that because of financial, home, and community environmental conditions, numerous students with unusual ability and substantial potential for success in graduate school are unable to pursue a graduate education and attain their full educational potential. It is further recognized that to combat effectively the forces which prevent these students from pursuing a graduate education, financial assistance is required. To further this purpose, the state graduate fellowship program shall provide financial assistance to unusually able persons, and the commission, in selecting unusually able persons, shall give consideration to students who are disadvantaged as defined by the commission. The Graduate Fellowship Advisory Committee created pursuant to Section 69673 shall present to the commission a comprehensive plan of selection of graduate fellowship winners which shall give consideration to unusual ability and achievement and shall recognize special problems of selecting students with

unusual ability and achievement with substantial potential for success in graduate school who may come from a disadvantaged background.

69673. The program for granting fellowships for graduate study shall be conducted under the general supervision of the commission, with the aid and advice of a committee of nine members appointed by the commission and composed of college and university teachers and graduate deans from the colleges and universities in California which are accredited or are candidates for accreditation by the Western Association of Schools and Colleges.

The commission shall prescribe the forms for all applications and certificates required in connection with the fellowship program. The commission shall, from time to time, adopt such rules and regulations as it may determine not in conflict with this chapter as may be necessary, or appropriate, for effecting the provisions of this chapter.

69674. Awards shall be for one academic year of graduate study, and may be renewed for up to three additional years if necessary for the student's degree objective if he is making normal progress toward a degree as determined by the commission. Awards of graduate fellowships shall be made upon a competitive basis. The commission may use experimental methods and subjective judgments, as well as conventional methods, in making its determination as to who qualifies as award recipients. The commission may take into account such factors as the following:

(a) Grades at the undergraduate level in the subject field in which the student wishes to do graduate work.

(b) Grades in the total undergraduate program.

(c) Aptitude for graduate work in the subject field, insofar as it is measurable.

(d) General aptitude for graduate study, insofar as it is measurable.

(e) Critical manpower needs in fields eligible for fellowships for graduate study.

69675. The graduate study fellowships shall be awarded:

(a) Without regard to race, religion, creed or sex.

(b) For not more than one academic year, plus one summer term if necessary, except as provided in Section 42204.

69676. No person shall be granted a fellowship unless:

(a) He is a resident of California.

(b) He has received, or will have received, a baccalaureate degree prior to the time of enrollment in a graduate school or has been accepted for admission by a graduate or professional school.

69677. Candidates for the awards shall apply for the awards to the commission and comply with all of the rules and regulations adopted by the commission for the award, regulation and administration of the state graduate fellowship program pursuant to this chapter.

69678. There shall be graduate fellowships, including renewals, for each academic year equal in number to 2 percent of the total number of baccalaureate degrees awarded during the next

preceding academic year by colleges and universities located in California and accredited by the Western Association of Schools and Colleges.

69679. Awards shall be made for full-time graduate study, as defined by the institution which the student attends. Income received through teaching assistantships, research assistantships, or other fellowships shall be considered at full value in determining the financial need of an applicant.

69680. The candidates for the award must apply for the awards to the commission and comply with all the rules and regulations adopted by the commission for the award regulation and the administration of the state graduate fellowship program pursuant to this chapter.

69681. The award may be in a lump sum or in periodic payments as determined by the commission.

69682. The Legislature hereby declares that it is to the benefit of the state to assist in the development of the talents of able students in graduate education and that it regards the graduate education of its qualified citizens to be a public purpose of great importance; and further declares the establishment of a graduate fellowship program to be a desirable and economical method of furthering this public purpose.

#### Article 10. Tuition Grant Program

69700. The Legislature hereby finds and declares that there is an apparent need to narrow the gap in student charges between public universities and colleges and independent institutions of higher education in California; to provide students from lower- and middle-income families with true economic and academic freedom of choice in selecting a college; to give independent colleges a reasonable opportunity to compete with public institutions in recruiting all qualified students; and to help assure that independent colleges will continue to contribute to the overall quality and diversity of higher education in California.

69701. (a) There is hereby created a pilot program of tuition grants to be administered by the commission for California resident undergraduate students enrolled in independent institutions of collegiate grade accredited by the Western Association of Schools and Colleges. To be eligible for a tuition grant, a student must meet the academic eligibility requirements for a scholarship under the state competitive scholarship program as determined in accordance with this chapter and the financial eligibility requirements established in subdivision (d).

(b) Tuition grants shall be available to students who are residents of the State of California as defined in subdivision (a) of Section 69563 and who are entering independent colleges as undergraduate students. Such grants shall be renewable on an annual basis, shall not exceed four years or the completion of the baccalaureate degree,

whichever first occurs, and shall be administered insofar as not inconsistent with the provisions of Chapter 4 (commencing with Section 69560) of this part.

(c) A tuition grant shall be in the amount of nine hundred dollars (\$900) per academic year or one-third of the cost of tuition per academic year, whichever is less.

(d) No student shall be eligible for financial aid under this section if such student's annual financial resources as determined by the commission exceed by more than one thousand five hundred dollars (\$1,500) the resources of a student eligible for a minimum state scholarship award at the institution attended. Nor shall any student receive aid hereunder during any year in which such student is eligible for and accepts financial aid from the state competitive scholarship program or the college opportunity grant program.

(e) There shall be available up to 1,250 new grants in each of the 1975-76, 1976-77, and 1977-78 fiscal years, and the recipients of such grants shall be eligible for renewal of their awards on an annual basis, subject to such limitations as may be established by or pursuant to subdivisions (a), (b), and (d) and such recipients' continuance of satisfactory progress toward a degree, as such progress may be defined by the commission.

(f) The commission shall adopt such rules and regulations as may be necessary to carry out the provisions of this section.

69702. The commission shall review the effect of the program in expanding the educational freedom of choice of California students and shall report its findings and recommendations to the Legislature prior to January 1 of the years 1976, 1977, and 1978.

## Article 11. California Community Service Fellowship Program

69720. In enacting the California Community Service Fellowship Program, the Legislature makes the following findings and determinations relative to the factors contributing to the need for such a program:

(a) Society provides substantial incentives which urge young individuals to enter a formal institution of higher education.

(b) Active involvement in the community between an individual's experience in high school and entrance into higher education and during periods which the young person interrupts his college or university experience should be viewed as equally legitimate learning options by both the young person and the society.

(c) Many college and university students drop out or attend reluctantly because they see the traditional college experience as not fulfilling and not appropriate to their individual learning needs. These individuals suffer a substantial personal loss and impose unnecessary costs upon the state.

(d) Student learning is viewed by many as an active process involving the factor of individual motivation. Traditional higher education continues to emphasize the passive involvement of students.

(e) Veterans who continue to attend college and universities under the Servicemen's Readjustment Act have proven to possess an increased commitment to learning and greater motivation than those students who entered higher education directly upon graduation from high school.

(f) The young person's academic program and career choices are very often based upon inadequate information and minimal nonschool experiences.

69721. For purposes of this chapter, the term "community service" includes, but is not limited to, work performed for a community service agency in such fields as environmental quality, health care, education, local, state, and federally funded public assistance programs, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, child care, outdoor beautification, and other fields of human betterment and community improvement.

69722. Any individual shall be eligible to participate in the program if employed in community service work for an average of 20 hours or more per week, and is paid not more than the federal minimum wage.

69723. An individual meeting the eligibility requirements prescribed by Section 69722 and participating in the program shall accrue fellowship benefits at the rate of one hundred dollars (\$100) per month while performing community service work, and shall receive benefits only if such service is for a period of not less than six months. Participants shall not accrue additional benefits after participating in the program for 24 months. Service of less than one month shall be credited proportionately.

69724. A fellowship, entitling the participant to receive the accrued benefits, shall be awarded to the participant at the time he or she enrolls at a public or private postsecondary educational institution. The accrued benefits shall be paid to the participant at monthly intervals during the academic year and in amounts selected by the participant, but not to exceed two hundred dollars (\$200) per month, until the accrued benefits are exhausted.

69725. A fellowship may be awarded at any time within eight years following the rendition of qualifying community service.

69726. Fellowships awarded pursuant to this chapter shall be funded from moneys appropriated for such purpose by the Legislature.

#### Article 12. Administration of Federal Scholarship Program

69740. Whenever by the provisions of any act of Congress a program of scholarships for undergraduate students is established which permits administration of such program within a state by a state agency, the commission, as established by Section 69510 shall administer such act within the state if the Governor and the

commission, by a majority vote of its entire membership, determine that the participation by the state in the Federal Scholarship Program under such act would not interfere with or jeopardize the continuation of the scholarship program established under Chapter 4 (commencing with Section 69580) of this part.

69741. The commission shall constitute the State Commission on Federal Scholarships and is hereby empowered to formulate a plan for development and administration of the Federal Scholarship Program within the state.

69742. Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of the act of Congress establishing a scholarship program and the rules and regulations adopted thereunder.

Before adopting a state plan the State Commission on Federal Scholarships shall hold public hearings as provided in the California Administrative Procedure Act.

69743. The commission is authorized to enter into a contract with the United States Commissioner of Education for purposes of conducting programs to encourage full utilization of educational talent authorized by Section 408(a) of Title IV of Public Law 89-329.

### Article 13. State Guaranteed Loan Program

69760. There is hereby established a State Guaranteed Loan Program for college students, to be consistent with Title IV of the act of Congress entitled the "Higher Education Act of 1965" (P.L. 89-329), and extensions thereof, or any similar act of Congress and the rules and regulations adopted thereunder.

69761. The purpose of the guaranteed loan program shall be as follows:

(a) To provide a source of credit to students who are residents of California to assist them in meeting educational costs at a community college, college, or university of their choice which is accredited by an accreditation association recognized by the United States Commissioner of Education for this purpose.

(b) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress.

69762. State guaranteed loans made pursuant to this chapter shall be made without regard to race, religion, creed or sex.

69763. The commission shall administer the guaranteed loan program established pursuant to this chapter. The commission is hereby vested with authority to enter into any contract with the United States Commissioner of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, and is hereby vested with all other necessary power and authority to cooperate

with the government of the United States, or any agency or agencies thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The commission shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

69764. In the event that the amount of loans applied for under this chapter exceeds the amount of the loans that may be guaranteed pursuant to this chapter, the commission may establish a system of priorities for the approval of loans.

69765. (a) The commission shall guarantee any student loan made pursuant to this chapter at 100 percent of the amount of the loan.

(b) The commission shall establish the ratio of reserve funds to loans outstanding.

69766. There is hereby created in the State Treasury the State Guaranteed Loan Reserve Fund. All money received from federal, state or local governments, or from other private or public sources, for the purposes of this chapter shall be deposited in the fund. The money deposited in the fund is hereby appropriated, without regard to fiscal years, for purposes of this chapter.

The total amount of all outstanding debts, obligations, and liabilities which may be incurred or created under this chapter, including any obligation to repay to the United States any funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress, is limited to the amount contained in the State Guaranteed Loan Reserve Fund, and the state shall not be liable beyond the amount contained in such fund for such debts, obligations, and liabilities.

69767. The State Treasurer shall invest, pursuant to statute, any surplus money in the State Guaranteed Loan Reserve Fund. The interest or other accretions as a result of the investment of such money may accrue to the fund or be expended for administration pursuant to federal regulations.

69768. The funds in the State Guaranteed Loan Reserve Fund shall be paid out by the State Treasurer on warrants drawn by the Controller and requisitioned by the commission in carrying out the purposes of this chapter and the federal act.

69769. The commission shall establish a Loan Study Council. The Loan Study Council shall be comprised of 10 members, appointed as follows:

(a) Two of the members shall be appointed by the commission from among the members of the commission.

(b) Two of the members shall be appointed by the commission from persons representative of the private lending institutions of the state.

(c) Two of the members shall be appointed by the Governor.

(d) Two of the members shall be appointed by the Speaker of the Assembly.

(e) Two of the members shall be appointed by the Senate

Committee on Rules.

The appointments authorized by this section shall be made on or before June 30, 1966.

69770. The Loan Study Council shall study the operation of the State Guaranteed Loan Program under this chapter and shall periodically report to the Legislature with recommendations as to any changes or modifications it finds are needed in the operation of the program.

69771. This chapter shall be applicable to the extent that its provisions do not conflict with Title IV of the Higher Education Act of 1965, or any extensions thereof, or any similar act of Congress, and the rules and regulations adopted thereunder.

#### Article 14. Contracts for Study of Medicine

69790. The Legislature hereby declares that it regards the furtherance of a greater supply of competent physicians and surgeons to be a public purpose of great importance and further declares the establishment of the program pursuant to this chapter to be a desirable, necessary, and economical method of increasing the number of physicians and surgeons to provide needed medical services to the people of California. The Legislature further declares and finds that some of the independent institutions of higher education in the State of California currently offering a program providing the necessary educational requirements leading toward a doctor of medicine degree have substantial assets in terms of available facilities, equipment and personnel and are capable of increasing enrollment in such programs at a cost substantially below that which it would cost the state to provide such services such as by the establishment of a new medical school in a state college or university and thus maximize the use of state resources for the support or expansion of existing educational programs. The Legislature further declares that it is to the benefit of the state to assist in increasing the number of competent physicians and surgeons graduated by colleges and universities of this state to practice medicine within the state.

69791. As used in this chapter, "study" means that phase of education in an accredited medical school leading toward a recognized doctor of medicine degree. The terms "college" and "university" mean any college or university which conducts a recognized educational program leading to the award of the degree of doctor of medicine.

69792. There is hereby created a state medical contract program for study in the field of medicine leading toward a doctor of medicine degree in colleges and universities located in California and accredited by the Joint Liaison Committee of the American Medical Association and the Association of American Medical Colleges.

69793. The commission shall have the authority to contract on behalf of the state with private colleges and universities maintaining

and operating a recognized school of medicine and accredited by the Joint Liaison Committee of the American Medical Association and the Association of American Medical Colleges, which have an affirmative action program approved by the State Fair Employment Practice Commission for the equitable recruitment of instructors and medical students, for the purpose of inducing such colleges and universities to refrain from reducing enrollment and to increase enrollment in the medical schools located in California.

To further this purpose, the commission is authorized to contract with non-state-supported medical schools to increase their enrollment above the number of total students enrolled for the 1970-71 academic year. The commission is authorized to make annual payments of twelve thousand dollars (\$12,000) for each medical student enrolled up to the total enrollment above the enrollment for the 1970-71 academic year. The annual payment for each additional medical student enrolled shall be decreased by the amount of any federal funds granted per medical student enrolled in any such schools during the academic year. The commission may also enter into similar contracts with medical schools formed on or after January 1, 1971, which have at least provisional accreditation from the Joint Liaison Committee of the American Medical Association and the Association of American Medical Colleges.

#### Article 15. Forfeiture of State Aid to Students

69810. In accepting a scholarship, loan, fellowship, grant-in-aid, or any other financial aid given or guaranteed by the state for assistance, every recipient thereof who is a student at a public or private university, college, or other institution of higher education, shall be deemed to have agreed to observe the rules and regulations promulgated by the governing authority of the university, college, or other institution of higher education, for the government thereof.

Any recipient of such state financial aid who, on the campus of the university, college, or other institution of higher education, willfully and knowingly commits any act likely to disrupt the peaceful conduct of the activities of such campus, and is arrested and convicted of a public offense arising from such act, may be determined to be ineligible for any such state financial aid for a period not to exceed the ensuing two academic years.

Any recipient of such state financial aid who, after a hearing, is found to have willfully and knowingly disrupted the orderly operation of the campus, but has not been arrested and convicted, may be determined to be ineligible for any state financial aid for such period as the hearing board may determine, not to exceed the ensuing two academic years.

Any such recipient who is suspended from an institution of higher education for such acts shall be ineligible for such state financial aid for a period not less than the time of such suspension.

The governing authority of the university, college, or other

institution of higher education shall, for purposes of this section, cause to be reviewed the record of each recipient and shall, as soon as practicable, notify a hearing board established by it of the name of any recipient who committed any such act and was arrested and convicted of any such public offense, or is found to have willfully and knowingly disrupted the orderly operation of the campus, or has been suspended from an institution of higher education for such acts.

69811. Upon receipt of notice, as provided in Section 69810 that any recipient has committed any act likely to disrupt the peaceful conduct of the activities of the campus and was convicted of a public offense in connection therewith, or is found to have willfully and knowingly disrupted the orderly operation of the campus, or has been suspended from an institution of higher education for such acts, the hearing board shall immediately give the recipient written notice of the report. The notice shall inform the recipient of the pendency of the proceedings for the suspension of assistance. It shall inform the recipient that he may present evidence of mitigating circumstances to the hearing board within 14 calendar days of the date of the mailing of the notice, and shall specify the procedures and means by which such evidence is to be presented, including the date at which any hearing to be afforded him is to be held. The hearing board may prescribe any procedures and means for such purposes which it may deem appropriate, provided that any hearing which may be afforded the recipient shall not be held sooner than seven days after the date of the mailing of the notice.

If no response to the hearing board's notice is made within the period specified in this section, the hearing board may suspend further assistance to the recipient and the suspension shall remain in effect not to exceed the ensuing two academic years.

After the conclusion of proceedings provided for in this section, the hearing board shall, by majority vote, determine whether further assistance to the recipient shall be suspended. If the recipient was arrested and convicted of a public offense arising from campus disruption, the suspension may remain in effect for a period not to exceed the ensuing two academic years. If the recipient is found by the hearing board to have willfully and knowingly disrupted the orderly operation of the campus, but has not been arrested and convicted, the hearing board may suspend further assistance to the recipient for such period as the hearing board may determine not to exceed the ensuing two academic years. If the recipient was suspended from an institution of higher education for such acts, the hearing board shall suspend further assistance to the recipient for a period not less than the time of such suspension. The findings of the hearing board shall be in writing.

The hearing board shall notify the appropriate state agencies of any suspension of state financial aid pursuant to this section, and no state financial aid shall be extended to the recipient during such period.

Any notice required to be made by this section shall be sufficient

when it is deposited in the United States registered or certified mail, postage paid, addressed to the last known address of the addressee.

69812. Nothing in this chapter shall be construed to prohibit any public or private university, college, or other institution of higher education from suspending or refusing to grant scholarships, loans, fellowships, grants-in-aid, or any other financial aid given or guaranteed by the state for academic assistance to any individual because of any other misconduct which in its judgment bears adversely on his fitness for such assistance.

69813. For the purposes of this chapter, "state financial aid" means any assistance given or guaranteed by the state which is predicated on attendance at an institution of higher education.

## DIVISION 6. CALIFORNIA MARITIME ACADEMY

### PART 43. CALIFORNIA MARITIME ACADEMY

#### CHAPTER 1. THE ACADEMY

##### Article 1. The School

70000. A state nautical school shall be maintained at the Port of San Francisco to provide instruction on the nautical sciences, marine engineering, and related fields, including all those necessary to provide the highest quality licensed officers for the American Merchant Marine and California maritime industries. Said instruction shall be based upon the foundation of general studies for the purpose of preparing students for said Merchant Marine and industries and licensing therein.

70001. "Port of San Francisco" as used in this part, includes all of San Francisco, San Pablo, and Suisun Bays, and all rivers flowing into the bays or the straits connecting them.

70002. The nautical school may be known as the California State Nautical School, the California Maritime Academy, or by such other name as the board of governors determines. The terms "college" or "university" shall not be used in any such designation.

##### Article 2. Board of Governors

70010. There is within the Department of Education a California Maritime Academy. The California Maritime Academy shall be administered by a board of governors, designated as the California Maritime Academy Board of Governors. The board shall be composed of seven members appointed by the Governor. Two of the appointive members shall be educators from the field of higher education. Three of the appointive members shall be public lay members, one of whom shall be selected by the other members to serve as the chairman of the board. Two of the appointive members shall be representatives of the maritime industry. The board of

governors shall request the Federal Maritime Administration to appoint a representative of the administration to meet with the board. Such a representative shall not have a vote.

70011. Except as provided in this section, the term of office of the members of the board is four years, and they shall hold office until the appointment and qualification of their successors. Vacancies shall be filled by appointment for the unexpired term. The terms of members of the board serving on July 1, 1973, shall be classified by lot so that:

(a) Of the two appointive members who shall be educators from the field of higher education, one term shall expire on January 15, 1974, and the other on January 15, 1977.

(b) Of the three appointive members who shall be public lay members, one term shall expire on January 15, 1975, another term shall expire on January 15, 1976, and the third shall expire on January 15, 1977.

(c) Of the two members who shall be representatives of the maritime industry, one term shall expire on January 15, 1975, and the other on January 15, 1976.

70012. The members of the board of governors shall serve without pay, but each shall be allowed his actual expenses incurred in attending any regular or called meeting of the board of governors, or in performing any service for the board of governors at the direction of the board, or in attending the session of any duly appointed subcommittee of the board or in performing any service for the subcommittee at the direction of the chairman thereof. The expenses shall be paid from any appropriations which are provided for the purposes of the nautical school.

70013. The board may appoint a secretary of the board, determine his duties, and fix his compensation. He shall hold office at the pleasure of the board.

### Article 3. Administration and Degrees

70020. The board of governors shall provide, maintain, manage, and control a state nautical school pursuant to this part.

70021. The board shall:

(a) Appoint, and may remove, a superintendent of the school and all necessary instructors and other employees.

(b) Determine the powers, duties, and compensation of the superintendent, instructors, and employees.

(c) Fix the terms upon which students shall be received and instructed in the school, and suspended, discharged, or graduated therefrom.

(d) Make all regulations necessary for the procurement or purchase of supplies and materials for any vessel while she is cruising and for her management and control.

(e) Provide from time to time for cruises in and from San Francisco Harbor.

70022. The board of governors shall obtain the following services from the Trustees of the California State University and Colleges pursuant to a contract providing for compensation, either in direct payment or by means of the exchange of services or use of facilities, to the trustees for such services:

(a) Legal services.

(b) Legislative representation.

(c) Assistance in curriculum development to the extent requested by the board of governors.

70023. The California Maritime Academy Board of Governors may contract with the Department of Education or other appropriate state agency or agencies to provide for personnel services.

70024. The board may secure in the City and County of San Francisco suitable rooms and accommodations necessary for carrying on the work of the board.

70025. The board shall provide all necessary books, charts, instruments, apparatus, and supplies required in the work of the school and for the proper accommodation, comfort, recreation, and keep of the superintendent, instructors, crew, and pupils.

70026. The board may receive from the federal government or from other sources and use for the accommodation of the school, a vessel or vessels detailed or furnished by the federal government or from other sources with all apparel, charts, books, and instruments of navigation, and a reservation or reservations with all buildings and equipment thereon.

70027. The Governor may make application in writing to the federal government to furnish a suitable vessel with all her apparel, charts, books, and instruments of navigation and a reservation or reservations with all buildings and equipment thereon to be used for the benefit of the school.

70028. The board of governors may with the approval of the Director of Finance accept on behalf of, and in the name of, the state, such gifts, donations, bequests, and devises as are made to the school, by whatever name the school is known, which in the judgment of the board will be of benefit to the state and to the school. The gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the board of governors deems advisable.

70029. The board may annually expend for the purposes of the school any funds which the Legislature appropriates, and also any funds which are received from the federal government for the purpose of aiding in the maintenance of the school. All such money shall be expended according to law on vouchers, certified by the superintendent or in his absence from the state, by the chairman of the board of governors. The board shall cause to be kept full and detailed accounts of all such expenditures and shall make a complete report thereof, with a list of all the work of the school, annually to the Governor.

70030. The board may appoint as superintendent and as

instructors of the school such officer or officers as are designated for that purpose by the Secretary of the Navy.

70031. The State Personnel Board shall establish and adjust the salaries of the superintendent, members of the teaching staff, officers and employees of the California Maritime Academy in the same manner and following the same procedures as in the establishment and adjustment of state civil service salaries. The State Personnel Board shall establish and adjust the classifications of the superintendent, members of the teaching staff, officers and employees of the California Maritime Academy in the same manner and following the same procedures as in the establishment and adjustment of state civil service classifications.

70032. The superintendent of the school is also the commander of the school. He has, subject to the regulations of the board, the direct control, supervision, and management of the school and of all the property of the school, and has such additional powers and duties as are provided by the regulations of the board.

70033. The board shall, before each regular session of the Legislature, prepare and submit to the Governor a budget or estimate of the sum required for the maintenance and support of the school and its cruises for the ensuing biennium.

70034. The board of governors may confer any appropriate degree, including the degree of bachelor of nautical science, upon the students who successfully complete the requirements therefor established by the board of governors.

70035. The Legislature hereby finds that attendance at the California Maritime Academy is a full-time occupation which does not allow opportunity for student employment. For that reason, it is impossible for students attending the academy to contribute to the cost of their education through employment while attending. This limits the opportunity for students who have no financial ability to contribute to the payment of their cost of education.

For these reasons, the board of governors shall develop a positive policy providing opportunities for financial help for students to attend the academy and to actively recruit students from economically disadvantaged backgrounds. In order to implement this policy, the board may make full use of any and all state and federal funds available and may receive private contributions, including those from the maritime industry for this purpose.

70036. The board of governors shall take all necessary steps, in accordance with state law, to receive the maximum possible amount of federal funds from all available sources.

70037. The Legislature recognizes that the California Maritime Academy has unique facilities, such as a deep-water dock, the ship Golden Bear, several smaller vessels, and equipment which provide potential resources to the California State University and Colleges.

The Trustees of the California State University and Colleges and the board of governors are encouraged to cooperate in programs designed to increase the sharing and lending of facilities and to allow

the exchange of students and instructors when such action is not inconsistent with the primary goals of each institution.

#### Article 4. Revolving Funds

70050. The board may, out of any appropriation made for the support of the school, without at the time furnishing vouchers and itemized statements, withdraw a sum or sums not to exceed thirty thousand dollars (\$30,000) to be paid to the commanding officer of the vessel used by the school to provide for the payment of expenses of cruises. The sum or sums so drawn for any cruise or cruises shall, not later than two months following the termination of the cruise or cruises, be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller. Any unexpended balance of the sum or sums so withdrawn shall be returned to the appropriation from which originally withdrawn.

70051. The commanding officer, in such manner as the board by regulations provides, shall account for the advances by proper vouchers, filed with the board within 30 days after the termination of the cruise. Any unexpended balance of the advances after the termination of the cruise, shall be returned by the commanding officer to the board for credit to the appropriation from which the sums were originally withdrawn.

70052. The commanding officer shall give a bond in the sum of thirty thousand dollars (\$30,000), with a surety or sureties approved by the board for the proper disbursement of and accounting for the advances.

70053. The board of governors, or any person authorized by the board of governors, may withdraw, without at the time furnishing vouchers and itemized statements, from any appropriation made for the support of the school a sum not to exceed two thousand dollars (\$2,000), as a revolving fund known as the "clothing and small stores fund" which fund is continued in existence. The fund shall be used to purchase clothing, textbooks, and other equipment required of students of the school, not furnished by the school, for the purpose of resale to the students of the school. Receipts from the sale of the clothing, textbooks, and other equipment shall be credited to the fund. The receipts from sales together with the purchase price of materials unsold shall at all times be not less than equivalent in value to the principal amount of the fund.

#### Article 5. Students

70060. Any resident of the state who has the required qualifications may be admitted to the school as a student. Each such student shall pay the tuition fee fixed by the board of governors but such fee shall not be fixed at less than one hundred thirty-five dollars (\$135) a trimester.

The board of governors may waive the required qualifications for up to 4 percent of the students.

70061. The tuition fee required of a pupil under Section 70060 may be reduced by the board of governors, with the approval of the Department of Education and the Department of Finance, in the amount received by the state on account of such student from the federal government or other governmental agency. Money received from such payments shall be transmitted to the State Treasury as credit to the academy's support appropriation current at the date of issuance of the State Controller's receipt therefor as may be designated by the academy prior to its deposit in the State Treasury. Such moneys so credited are hereby appropriated for the support of the academy.

70062. Nonresident students, as defined in Section 68018, may be admitted to the school when vacancies occur, subject to the payment of a tuition fee in such amount as the board of governors may fix but such fee shall not be fixed at less than two hundred twenty-five dollars (\$225) a trimester.

70063. The board of governors may provide for the payment of fees charged students by installments payable at such intervals as the board from time to time determines.

70064. All fees collected shall be reported to the State Controller at the end of each month and at the same time shall be remitted to the State Treasurer for deposit in the General Fund. All fees collected and deposited are appropriated for the support of the school in addition to such other funds as are appropriated therefor by the Legislature.

70065. Under rules and regulations established by the board with approval of the Director of Education, refunds of any fees paid by any student or a part thereof, may be made to a student withdrawing from the school or ceasing to be a pupil. Any student who upon enrollment does not qualify for financial assistance from the federal government or other governmental agency but is subsequently found to qualify for such assistance shall for the period for which he qualifies for financial assistance from the federal government receive a refund in the amount of the difference between the tuition paid by him and the tuition required of students qualified to receive such assistance.

70066. Students at the school are eligible for state competitive scholarships and the board of governors is encouraged to present a proposal to the Legislature to provide funds for an educational opportunity program for which students at the school are eligible.

## DIVISION 7. COMMUNITY COLLEGES

### PART 44. BOARD OF GOVERNORS

#### CHAPTER 1. BOARD OF GOVERNORS

##### Article 1. Composition and Organization

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of 15 members, who

are appointed by the Governor with the advice and consent of two-thirds of the Senate.

71001. The terms of office of the members of the board shall commence on January 15, 1968, and the members shall enter upon their duties on that date and shall classify their terms of office by lot so that four of the terms of such appointive members shall expire on January 15, 1969, four of the terms of such appointive members shall expire on January 15, 1970, four of the terms of such appointive members shall expire on January 15, 1971, and three of the terms of such appointive members shall expire on January 15, 1972. Thereafter, the terms of office of the members of the board shall be four years.

At the first meeting of the board, and annually thereafter, the members shall select two of their members to serve as chairman, and vice chairman, respectively.

71002. Members of the board shall be selected from outstanding lay citizens of California who have a strong interest in the further development and improvement of the public community colleges.

71003. Any vacancy on the board shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

71004. Members of the board shall serve without pay. They shall receive their actual and necessary traveling expenses while on official business. The headquarters of the board and the chief executive officer shall be in Sacramento.

## Article 2. Powers and Duties

71020. The board shall have the power to adopt such rules and regulations, not inconsistent with law, as are necessary for its own government and to enable the board to carry out all powers and responsibilities vested in it by law.

71021. All official acts of the board shall require the affirmative vote of at least eight members. The vote of all members shall be recorded.

71022. All meetings of the board shall be open and public except as otherwise provided.

The board may hold executive sessions closed to the public to consider the employment of any person, or the dismissal or other form of disciplinary action to be taken against any officer or employee under the jurisdiction of the board, except where such person, officer, or employee requests a public hearing. The board

may exclude from any such meeting, whether public or closed to the public, during the examination of a witness, any or all other witnesses in the matter being investigated.

71023. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of community colleges as an integral and effective element in the structure of public higher education in the state. The work of the board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of the community colleges.

71024. The Board of Governors of the California Community Colleges has the duties, powers, purposes, responsibilities, and jurisdiction heretofore vested in the State Board of Education, Superintendent of Public Instruction, the Department of Education, and the Director of Education with respect to the management, administration, and control of the community colleges.

Whenever in any law other than a provision of the Education Code, enacted prior to January 1, 1977, relating to the management, administration and control of the community colleges reference is made to the State Board of Education, Superintendent of Public Instruction, the Department of Education, or the Director of Education, such reference shall be deemed to mean the Board of Governors of the California Community Colleges.

71025. The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

71026. The chancellor's office shall annually investigate each community college to determine whether it has met the standards prescribed pursuant to Section 71025. As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges.

71027. The Board of Governors of the California Community Colleges shall establish criteria and standards for graded classes in grades 13 and 14.

71028. The board of governors shall review and approve academic master plans and master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of Division 7 of this title shall satisfy the requirements of this section in relation to master plans for facilities. Each district shall annually submit changes in its approved academic master plan for approval by the

board of governors.

71029. The board of governors shall prescribe regulations under which contracts, agreements or arrangements may be made with agencies of the federal government for funds, services, commodities, or equipment to be made available to schools of the community college system, except the California State University and Colleges.

71030. All such contracts, agreements or arrangements shall be entered into in accordance with regulations prescribed by the board of governors and in no other manner.

71031. The board of governors may enter into an agreement with the government of the United States or any agency thereof relative to the establishment of courses of study in aeronautics in the community colleges.

71032. The board of governors may enter into agreements with any agency of the federal government for the education of persons in the service of the federal government in schools under the jurisdiction of the board of governors. All money received from an agency of the federal government for the education of persons in any such school is hereby appropriated for the support of such school in addition to such other funds as may be appropriated therefor by the Legislature.

71033. The board of governors may enter into agreements with agencies of the federal government, county superintendents of schools, county boards of education, any school district, and state university or college foundations or other auxiliary organizations, including those established pursuant to Sections 89300 and 90000, for the performance of any services for such agencies by any school under the jurisdiction of the board of governors. All money received under any such agreement, except recovery of contributions to the State Employees' Retirement Fund, is hereby appropriated for the support of such school in addition to such other funds as may be appropriated therefor by the Legislature.

71034. The board of governors shall, not later than the 25th day of July in each year, prepare an estimate of the amount of state school money that will be apportioned to each community college district during the current school year, and furnish a certified copy of the estimate to each community college district.

71035. The board of governors may conduct experimental work in education through various media, including radio and television.

71036. The board of governors may develop aural and visual curriculum materials, evolve means and methods, and prescribe standards, for the use of such materials in the community college district.

71037. The board of governors shall employ such persons as are necessary for the coordination and the supervision of services for hard-of-hearing children.

71038. The board of governors may enter into an agreement with any political entity mentioned in Section 87422 for the exchange and employment of persons serving as instructors in schools under the

jurisdiction of the board of governors and employees of public schools of the political entity. The exchange and employment shall be made under comparable circumstances, subject to comparable conditions, with comparable effect as to tenure and retirement rights, subject to comparable requirements as to payment of salary and deductions therefrom, and for the same period of time as set forth in Sections 87422, 87423, and 87424 with respect to the exchange of community college district employees, except that the circumstances, conditions, rights, and requirements shall be those appropriate to the employment relationship between the instructors and the board of governors.

71039. The board of governors may establish in the chancellor's office, community colleges, a school library consultant service to assist and advise local community college districts in the establishment, development, and improvement of school libraries in the community colleges of the state.

71041. The board of governors shall:

- (a) Revise and update budget manuals, forms and guidelines.
- (b) Cooperate with federal and state agencies in prescribing rules and regulations, and instructions required by such agencies.
- (c) Assess the needs and methods of collecting and disseminating financial information.
- (d) Conduct workshops and conferences for the purpose of training school district and county personnel.
- (e) Provide consultant services to colleges and universities on courses of instruction relative to school budgets and accounting practices.

71042. The board of governors and a statewide association composed exclusively of community college district governing boards, school district governing boards, or county boards of education, or all of them acting jointly, may conduct annual workshops within this state. Such workshops shall include but are not limited to study and instruction on the subjects of school finance, the Education Code and related laws, and the ethics, duties, and responsibilities of community college district governing boards and county boards of education. A reasonable fee not to exceed the estimated pro rata cost of the workshop may be charged board members and members-elect who attend.

71043. The Board of Governors of the California Community Colleges shall maintain a permanent record of each community college district and county board of education member who successfully completes a workshop and shall issue a certificate of completion to such member.

71044. Any member or member-elect of a community college district governing board who attends and successfully completes a workshop as authorized by this article may be reimbursed for expenses as provided for in Section 72631.

71046. The Board of Governors of the California Community Colleges may, with the approval of the Director of Finance, accept

on behalf of, and in the name of, the state such gifts, donations, bequests, and devises as may be made to the board of governors, or to any school or other institution under the jurisdiction of the board of governors which in his judgment would be of benefit to the state and, if made to a community college or other institution, would be of benefit to the community college or other institution. Gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the board of governors may deem advisable.

71047. Money received under Section 71046 may, with the approval of the Director of Finance, be deposited by the board of governors to the credit of the board of governors or of the community college or institution designated by them, in accounts in banks or transmitted by them to the State Treasurer for deposit in trust accounts. Withdrawals may be made from any such bank account or trust account by the board of governors or any employee of the board of governors authorized to make withdrawals therefrom.

71048. All moneys received by or for any community college under the jurisdiction of the Board of Governors of the California Community Colleges from any agency of the federal government, directly or indirectly, for the education of veterans, is hereby appropriated for the support of such community college in addition to such other funds as may be appropriated therefor by the Legislature.

71049. For the purposes of Government Code Section 11032, the following constitute, among other proper purposes of like or different character, state business for officers and employees of the board of governors and the chancellor's office for which the officers and employees shall be allowed actual and necessary traveling expenses:

(a) Attending meetings of any national association or organization having as its principal purpose the study of matters relating to education or to a particular field or fields of education, or any agency of such association.

(b) Conferring with officers or employees of the United States, or appearing before committees of either house of the Congress of the United States, relative to problems relating to education in California.

(c) Conferring with officers or employees of other states engaged in the performance of similar duties.

(d) Obtaining information useful to the agency in the conduct of its work.

When traveling is outside the state, traveling and expense shall be approved by the Governor and Director of Finance as provided in Government Code Section 11032.

## Article 3. Delineation of Functions

71060. By enacting this article the Legislature declares its intent to more specifically delineate the powers, duties, and functions of the Board of Governors of the California Community Colleges and the powers, duties, and functions of the local district governing boards operating community colleges. This article shall be construed as an expression of the policy of the Legislature with regard to the functions of the above-mentioned boards, but shall not be construed as an enactment of specific legal provisions. Nothing contained in this article shall supplant existing law. Upon passage of this article by the Legislature, however, the Board of Governors of the California Community Colleges may take whatever steps are necessary to implement the policies contained in this article.

71061. As used in this article, "board of governors" means the Board of Governors of the California Community Colleges. "District governing board" means the governing board of a community college district. "District" means a community college district.

71062. The board of governors shall adopt rules and regulations not inconsistent with the laws of this state for the government and supervision of the public community colleges.

71063. The board of governors shall exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor, and shall provide advisory service in connection with such formations or reorganizations. The board of governors shall encourage county committees on school district organization to include all territory of the state within public community college districts.

71064. The board of governors shall coordinate and encourage interdistrict, regional, and statewide development of public community college programs and facilities.

71065. The board of governors shall approve the offering of out-of-district classes by public community college districts.

71066. The board of governors shall establish minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

71067. The board of governors shall establish criteria and standards for graded and nongraded classes in community colleges.

71068. The board of governors shall establish minimum standards for the employment of academic and administrative staff in community colleges.

71069. The board of governors shall conduct necessary statewide research on community colleges and shall provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation and analysis of data for effective planning and coordination, and dissemination of information.

71070. The board of governors shall facilitate articulation with

other segments of higher education and with secondary education.

71071. The board of governors shall represent the community colleges before state and national legislative and executive agencies.

71072. The board of governors shall administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law.

71073. The board of governors shall establish a uniform system of budgeting and accounting for districts.

71074. The board of governors shall establish out-of-state tuition fees and advise district governing boards on procedures governing the admission of out-of-state students and foreign students.

71075. The board of governors shall establish procedures governing interdistrict attendance agreements and restrictions on attendance between districts.

71076. The board of governors shall establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

71077. The board of governors shall establish recommended procedures regarding campus site selection.

71078. The board of governors shall plan for, and advise on, financial assistance and scholarship programs for community college students.

71079. The board of governors shall establish minimum procedures to be used by district governing boards to insure to faculty and students the opportunity to express their opinions at the campus level and to insure that these opinions are given every reasonable consideration.

#### Article 4. Office of Chancellor

71090. The board shall appoint a chief executive officer, to be known as the Chancellor of the California Community Colleges, and fix his salary.

71091. The chief executive officer shall serve at the pleasure of the appointing power. He shall execute such duties and responsibilities as may be delegated to him by the board.

71092. The chief executive officer shall employ and fix the compensation, in accordance with law, of such assistants, clerical, and other employees as he may deem necessary for the effective conduct of the work of the board and the chief executive officer.

71093. The chancellor, subject to such additional conditions as the board of governors may establish, may purchase annuity contracts for permanent employees of the board of governors and shall reduce the salary of an employee for whom such contract is purchased by the amount of the cost thereof provided that all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of

1954 and Section 17512 of the Revenue and Taxation Code.

(b) The employee makes application to the chancellor for such purchase and reduction of salary.

(c) All provisions of the Insurance Code and the Government Code applicable to the purchase of such annuities are satisfied.

## PART 45. DISTRICTS AND GOVERNING BOARDS

### CHAPTER 1. GENERAL PROVISIONS

#### Article 1. Naming

72000. The first governing board of any new community college district shall, at the first meeting of the board or as soon as practicable thereafter, name the district.

72001. The name "California community colleges" is the property of the state. No person shall, without permission of the Board of Governors of the California Community Colleges, use this name, or any abbreviation of it, or any name of which these words are a part in any of the following ways:

(1) To designate any business, social, political, religious, or other organization, including but not limited to, any corporation, firm, partnership, association, group, activity or enterprise; or

(2) To imply, indicate or otherwise suggest that any such organization is connected or affiliated with, or is endorsed, favored or supported by, or is opposed by one or more California community colleges, the Board of Governors of the California Community Colleges, or the office of the Chancellor of the California Community Colleges; or

(3) To display, advertise, or announce these names publicly at or in connection with any meeting, assembly, or demonstration, or any propaganda, advertising or promotional activity of any kind which has for its purpose or any part of its purpose the support, endorsement, advancement, opposition or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity or program.

The provisions of this section shall not preclude the use of the name "California community colleges" by any person or organization otherwise subject to this section using the name immediately prior to March 4, 1972.

Nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement in the course of stating his experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional or other employment whatsoever.

Every person violating provisions of this section is guilty of a misdemeanor.

72002. Whenever a petition is presented to the board of

supervisors, signed by at least 15 qualified electors of any community college district, asking that the name of the district be changed, the board of supervisors shall designate a day upon which it will act upon the petition, which shall not be less than 10 days nor more than 40 days after the receipt of the petition.

The clerk of the board of supervisors shall give notice to all parties interested by sending by registered mail to each of the governing board members of the community college district a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, the clerk shall notify the county superintendent of the change of the name of the district.

### Article 2. Establishment and Maintenance

72010. Community colleges shall be established and maintained in community college districts pursuant to law.

72011. The governing board of each community college district shall establish and maintain one or more community colleges.

72012. Community colleges may be maintained as separate day or evening community colleges. Evening community colleges may be designated as adult schools.

### Article 3. Organization of District Boards

72020. In any community college district coterminous with a unified district, the governing board of the unified district shall, except as provided in this section or in Section 74128, constitute the community college board and after organizing as a community college board shall have the management and control of the community college in the district. If the district is divided into two or more unified districts, or if any territory is included within the boundaries of such community college district by annexation thereto or by change of boundaries thereof, which territory is not included within the unified district, such community college district shall be governed by a board of five members who shall be elected in the same manner, for the same terms, and at the same time as are members of the governing boards of other districts. Within 15 days after the effective date of the annexation or change of boundaries for the purpose of electing members of the governing board, the county superintendent of schools having jurisdiction over the community college district shall call an election. The election shall be called and conducted in the manner provided by law for an election to choose the first governing board members of a newly formed community college district.

72021. In every community college district which was divided into five wards on or before September 7, 1955, one member of the board shall be elected from each ward by the registered voters of the

ward. On or before January 1st of a fiscal year the governing board of the district may rearrange the boundaries of the wards to provide for representation in accordance with population and geographic factors or may abolish the wards.

72022. The county committee on school district organization, upon petition of the governing board of any community college district, may provide for the establishment, rearrangement, or abolishment of trustee areas in any community college district or increase or decrease the number of members of the governing board, in the same manner as trustee areas may be provided for in other districts under Sections 5020 to 5024, inclusive.

When trustee areas are established or rearranged under this section, governing board members shall be elected for four-year terms, and shall be either five or seven in number. The number of trustee areas shall not be less than two nor more than seven. The terms of trustees shall, except as otherwise provided, be staggered so that as nearly as practicable one-half of the trustees shall be elected in each odd-numbered year.

Subject to provisions of this section, any resident and registered elector of the school district not disqualified by the Constitution or laws of the state is eligible to candidacy for, and appointment and election to, the governing board of a community college district in which trustee areas have been provided under this section.

When trustee areas are established or rearranged under this section, the petition to the county committee by the governing board shall provide for election of trustees by one of the following methods:

(a) Election of an elector residing in and registered to vote in the trustee area he seeks to represent, by only the registered electors of the same trustee area;

(b) Election, of an elector residing in and registered to vote in the trustee area he seeks to represent, by the registered electors of the entire community college district.

72023. In every community college district in which trustee areas have not been established, there shall be a governing board of either five or seven members elected at large from the district to serve a term of four years. If trustee areas have been established in a community college district the governing board shall consist of a member or members from each trustee area. The terms of trustees shall, except as otherwise provided, be staggered so that as nearly as practicable one-half of the trustees shall be elected in each odd-numbered year.

In the Peralta Community College District, the governing board may consist of not to exceed 15 members, if the governing board so determines, whether or not trustee areas have been established.

72024. Within 20 days after the appointment of the community college board provided for by Section 72023, the county superintendent of schools having jurisdiction shall call a meeting of the board by giving at least 10 days' notice by registered mail to each member, for the purpose of organizing the community college board.

72025. At the meeting the community college board shall organize by electing a president from its members and a secretary, and may transact any other business relating to the affairs of the community college district.

72026. Notwithstanding any provision of law to the contrary, if the governing board of a community college district finds that the boundaries of trustee areas do not conform to the district's geography or population distribution due to annexation of territory to the district after the trustee boundaries were formed, the board may, in its discretion, order a special election seeking voter approval for rearrangement of such areas in the manner provided in this section.

Upon adoption of a resolution by a majority of the members, the board shall call and conduct at least one (1) public hearing on the proposed rearrangement of trustee area boundaries by publishing notice thereof in accordance with Section 6061 of the Government Code. The notice shall be published at least 10 days prior to each hearing to be held and shall state the time and place of the hearing and the general nature of the proposed boundary rearrangement.

At the conclusion of such public hearing or hearings, the board may adopt a resolution by majority vote of the members thereof ordering a special election on the proposed rearrangement of trustee areas within the district. The election shall be consolidated with the next scheduled primary or general statewide election and shall be called and conducted by the county superintendent of schools having jurisdiction in the manner otherwise prescribed for elections in Chapter 3 (commencing with Section 5300) of Part 4 of Division 1 of Title 1.

The ballot shall contain the following words properly located thereon: "For the rearrangement of trustee areas in \_\_\_\_\_ (insert name) District—Yes" and "For the rearrangement of trustee areas in \_\_\_\_\_ (insert name) District—No."

If the proposal for the rearrangement of trustee areas within the district pursuant to this section is approved by a majority of the electors voting at the election and it appears that one or more trustee areas in the district will not be represented in the membership of the governing board or that one or more trustee areas will have more than its allotted number of representatives in the membership of the governing board, the county superintendent of schools having jurisdiction shall call and conduct an election to determine who shall represent such trustee area or areas at the next regular election for community college trustees as otherwise provided by law. The term of office of a newly elected and qualified member shall expire on the date the term of the former member would have expired if the former member had remained in office. If the offices of two or more members become vacant due to the operation of this paragraph, the superintendent shall determine by lot which term of office of former members shall be assumed by which of the newly elected and qualified members.

72027. Upon the formation of a community college district the county superintendent of schools having jurisdiction shall call and set the date of an election for the purpose of electing the governing board of the district. Such call shall be issued not later than 30 days after the formation of the district. The election shall be called, held, and conducted as are elections for members of governing boards of elementary school districts.

72028. The first members of the governing board shall take office on the third Monday following their election. The term of office of subsequent members of the board shall begin on April 1st following their election.

72029. Notwithstanding the provisions of Section 72027, the county superintendent of schools having jurisdiction may call and set the date for an election for the purpose of electing the governing board of the district on the same date that the election is held for the formation of the community college district. The call for both elections shall be issued at the same time. The election shall be called, held and conducted as are elections for members of the governing boards of elementary school districts.

72030. At the initial meeting of the governing board of a newly formed community college district it shall elect one of its members as chairman, and shall designate a secretary.

The majority of members of the first elected board of any newly formed community college district, the members of which majority received the highest number of votes, shall serve until March 31st of the second succeeding odd-numbered year. The terms of the other members shall expire on March 31st of the first succeeding odd-numbered year. All such members shall continue in office until their successors are elected and qualified.

72031. When a community college district, members of the governing board of which are also members of the governing board of a city school district with an average daily attendance of 400,000 or more in grades kindergarten through 12, serves a greater area than the city school district, the persons who serve as members on the governing board of the community college district shall not serve also as members of the city school district board. Those persons who serve as members of the governing boards of both the community college district and the city school district shall, on or before December 31, 1968, elect on which of the two boards they will continue to serve. Those persons who elect to serve as members of either the governing board of the community college district or the governing board of the city school district shall continue to serve also as members of the governing board from which they have elected to withdraw until their successors on such board are elected at the governing board election next following December 31, 1968, and have assumed office.

Prior to December 1, 1968, the governing board shall identify each position the wages or salary of which is paid in whole or in part from

the funds of the community college district and shall so notify each incumbent. Each employee whose regular-position wages or salary is paid exclusively from the funds of either district as of June 30, 1969, shall be deemed on July 1, 1969, to be an employee of the district paying the wages or salary. Each classified employee whose regular-position wages or salary was upon written notification made after July 1, 1968, paid in part from community college district funds and in part from city school district funds, and each certificated employee paid 50 percent or more from the funds of the community college districts, shall make an irrevocable, written election on or before December 31, 1968, as to the district in which he will serve. Upon the effective date of the election, a classified employee in either district shall have the right, based upon his seniority in the position classification in which he is then serving, to transfer to a position in the same position classification in the other district and to displace a classified employee with lesser seniority in such class employed in the other district, under rules established by the personnel commission serving the city school district. Should such an employee fail to make such election he shall be deemed to have elected to serve the city school district. Such election shall become effective on July 1, 1969, unless the employee has prior to June 30, 1969, voluntarily accepted regular assignment to a regular position the wages or salary of which is paid on June 30, 1969, exclusively by one district, and he is the incumbent in such position on said date. After June 30, 1969, no such employee shall have tenure or classification as a permanent employee in other than the district in which he elects to serve.

If both the city school district and the community college district have adopted a merit system as provided in Article 3 (commencing with Section 88060), Chapter 4 of Part 51 of this division, and were served by a single personnel commission as provided in Section 88063, then a new personnel commission shall be appointed for the community college district effective January 1, 1969, or as soon thereafter as possible, under the procedures applicable to the original appointments to the personnel commission which has served both districts. Subsequent appointments shall be made in accordance with Section 88069. The new personnel commission shall be empowered to meet prior to July 1, 1969, for the purpose of appointing a personnel director, and may enter into a contract with the personnel commission which has served both districts for the necessary selection procedures. It may also take action on all other matters necessary for the orderly transition of responsibility between the two personnel commissions. The new personnel commission shall appoint a personnel director in the manner provided in Section 88074 within 90 days after the appointment of at least two of its members, but not before July 1, 1969. The personnel commission which had served both districts may continue to serve both districts pursuant to the terms of a contract which may be entered into by the personnel commissions of both school districts until such time as the

newly appointed personnel commission determines that it can serve the community college district.

Except as otherwise provided in this section, the rights, benefits and burdens of regular classified employees of both the city school district and the community college district shall be fixed in accordance with the provisions of Sections 88018 and 88019. The personnel commission of the community college district shall initially adopt the rules of the personnel commission which had served both districts. The governing board of the community college district shall fix the compensation of classified employees in accordance with Section 88161. The community college district shall maintain for a period of two years after June 30, 1969, at least the same benefits of salary, vacation, hospital-medical insurance, paid illness leave, and other paid leaves provided for classified employees on June 30, 1969.

A classified employee who has probationary status in either district on June 30, 1969, shall remain in probationary status, with accumulated seniority credit, until he completes his probationary period. A classified employee who has permanent status on June 30, 1969, shall have the rights and privileges listed below on and after the separation of the community college and city school boards of education:

(a) Seniority for all purposes for all creditable service, as provided by the rules of the appropriate personnel commission, in either district.

(b) In case of layoff from one district the right of reemployment in the other district, including the exercise of bumping rights, if the employee has the least seniority in his class in the employing district. Such reemployment and bumping rights shall apply to employees laid off on or before June 30, 1970; and through August 31, 1970, to employees whose layoff or bumping would have been effective as of June 30, 1970, except for delay caused by the process of determining relative seniority and bumping rights of employees. Subject to the approval of the employing district, the privilege of being reinstated after layoff in either district in a parallel class for a period of 27 months commencing July 1, 1970.

(c) Subject to the approval of the employing district, the privilege of reinstatement after resignation or voluntary demotion, and the privilege of transfer or voluntary demotion in either district, with the approval of both districts, for a period of 39 months after July 1, 1969.

(d) The right to compete in promotional examinations in both districts through June 30, 1970, for classes for which he is qualified.

(e) The retention of all accrued vacation and illness leave benefits.

All classified eligibility lists which are in effect on June 30, 1969, shall continue to be in effect in both districts, for applicable classes, until they expire in accordance with Section 88119. Employees of both the city school district and the community college district who are on such lists on June 30, 1969, may be certified for and may accept

appointments to positions in either district.

For the purposes of Section 88091, the community college district shall be deemed to be a school district which had already adopted the merit system prior to September 17, 1965.

It is the intent of the Legislature in enacting this act to continue the rights, benefits, and privileges of regular classified employees, insofar as practicable, without disruption which may be caused by the separation of the community college and city boards of education.

Any part or all of the land, buildings, fixtures, leases, and other real property which are jointly owned by the city school district and the community college district may, at the option of the city school district, become the property of the city school district subject to the requirement that the city school district pay cash, or other valuable consideration acceptable to the community college district, to the community college district for its proportionate interest in such real property. Such payments may be made in installments over a five-year period, commencing July 1, 1969. Not less than 20 percent of such proportionate interest of the community college district shall be paid in any one installment. Such property shall be valued at its insurable value as of May 1, 1969. In cases where the value of real property cannot be established by reference to insurable value the market value of the property shall be used for valuation purposes. In order to provide for such payments, and for cash payments authorized in this section for the purpose of purchasing equipment, supplies, fixtures, vehicles, and other personal property, the maximum school district tax for such city school district is hereby increased by such amount as will produce the amount of such payments made pursuant to this section, and the increase shall be in addition to any other school district tax authorized by law to be levied. Such maximum school district tax increase may be levied commencing July 1, 1968, and shall remain in effect until all payments to the community college district for its interest in such real and personal property have been made.

All equipment and supplies, including fixtures, and other personal property located in any school shall remain with and become the property of the district operating such school. Any part or all of the equipment, supplies, fixtures, and other personal property, located in a facility owned jointly by both such districts, and which property has been used jointly by both such districts may, at the option of the city school district, become the property of the city school district subject to the requirement that the city school district pay cash, or other valuable consideration acceptable to the community college district, to the community college district for its proportionate interest in such personal property. Such personal property shall be valued at its insurable value as of May 1, 1969.

Equipment, supplies, and other stores possessed jointly by both districts as of July 1, 1969, shall be distributed in kind or in cash value in accordance with the costs as reflected in the records of the

community college district and the city school district.

Vehicles jointly owned or jointly used by the city school district and by the community college district, including those used for grading, landscaping, building or ground maintenance, cleaning, and for materials handling purposes, regardless of location, may, at the option of the city school district, become the property of the city school district, subject to the requirement that the city school district pay cash, or other valuable consideration acceptable to the community college district, to the community college district for its proportionate interest in such personal property. Such personal property shall be valued at its insurable value as of May 1, 1969.

One district may contract with the other district for the performance of services under such terms and conditions as may be agreed upon by the two districts.

Whenever in this code a section refers to a district, or to two or more districts, governed by a single governing board, or by governing boards of identical personnel, or to a district or districts in which the average daily attendance is in excess of 400,000, or makes a similar such reference, all provisions of such section shall apply with equal force to both such city school district and community college district.

72032. It is the intent and purpose of the Legislature, by this section, to make more particular provision concerning the governing board membership status of the individuals who, pursuant to Section 72031, have on or before December 31, 1968, made the election to serve either as members of the city board of education or as members of the governing board of the community college district.

If an individual whose term is to expire on June 30, 1971, elects to serve as a member of the governing board of the community college district only, such act shall be deemed to have created a vacancy in his membership on the city board of education, but such individual shall, nevertheless, continue to serve as a member of the city board of education until June 30, 1969, as though appointed to fill the vacancy until that time. Subject to such limitation, the vacancy shall be filled as provided by law, or by or under authority of the city charter, whichever is controlling. The individual shall, after July 1, 1969, serve as a member of the governing board of the community college district until the expiration of his term of office on June 30, 1971.

In 1969, at the same time and in the same manner as members of the city board of education are elected, an election shall be held in the community college district to elect members of the community college district governing board to fill the positions of the governing board members whose terms will expire on June 30, 1969, and the other governing board members, if any, whose terms will expire on June 30, 1971, and who have elected, pursuant to Section 72031, to serve as members of the city board of education only. Of the members elected to the governing board of the community college district in the 1969 general election, those receiving the lowest

numbers of votes shall be deemed to have been elected to the positions, if any, held by members whose terms would otherwise have expired on June 30, 1971, and who elected to serve on the city board of education only.

The first term of office of any such newly elected member receiving such lower number of votes shall expire on June 30, 1971. The election shall be held throughout the community college district, and the members elected to the community college district governing board thereat shall be elected at large.

For purposes of Section 5225, the governing board of the community college district shall assign office numbers 1, 3, 5, and 7 to members whose first terms of office will expire on June 30, 1971, and office numbers 2, 4, and 6 to members whose terms will expire on June 30, 1973.

72033. When a community college district is coterminous with a high school district, the governing board of the high school district shall not constitute the governing board of the community college district. Those persons who on the effective date of this section are serving as members of the governing boards of both a community college district and a coterminous high school district shall, however, continue to so serve until the expiration of their present terms, provided they may on or after July 2, 1969, elect on which of the two boards they will continue to serve. Such election shall be in writing, shall specify the effective date, and shall be filed with the county superintendent of schools having jurisdiction over the district. Those persons electing to withdraw as members of either the governing board of the community college district or the governing board of the high school district shall continue to discharge the duties of the office from which they have withdrawn until their successors on such board are appointed pursuant to Section 5090 or 5096 and have qualified.

72034. (a) The members of the governing board of any district maintaining a community college, except a unified district having an average daily attendance of 100,000 or more as of October, 1971, shall call an election for the purpose of determining whether the members shall continue to serve also as members of the governing board of any unified school district having boundaries which are coterminous with the boundaries of the community college district. The election shall be held at the general election in accordance with the provisions of this code for conducting a regular election of governing board members. The ballots used in such election shall contain the words "Separate Community College Board—Yes" and "Separate Community College Board—No." Each elector voting at the election shall indicate the answer he desires to give in accordance with regular election procedures.

(b) If the proposition receives a majority "yes" vote, then those persons who serve as members of the governing boards of both a community college district and any such unified school district shall, on or before December 31, 1972, choose on which of the two boards

they will continue to serve. Those persons who choose to serve as members of either the governing board of a community college district or the governing board of any such unified school district shall continue to serve also as members of the governing board from which they have chosen to withdraw until their successors on such boards are elected, or appointed after December 31, 1972, and have assumed office.

72035. (a) The members of the governing board of any unified district which has an average daily attendance of 100,000 or more as of October, 1971, and which maintains a community college shall call an election for the purpose of determining whether the members shall continue to serve also as members of the governing board of any unified school district having boundaries which are coterminous with the boundaries of the community college district. The election shall be held at the general election in accordance with the provisions of this code for conducting a regular election of governing board members. The ballots used in such election shall contain the words "Separate Community College Board—Yes" and "Separate Community College Board—No." The governing board of the district maintaining a community college shall prepare an impartial statement explaining the ballot measures and the expected results of continuing a common governing board or establishing two separate boards and such statement shall be distributed to the voters with the sample ballot and "pro" and "con" arguments, if any, as provided by law. Each elector voting at the election shall indicate the answer he desires to give in accordance with regular election procedures.

(b) If the proposition for a separate community college governing board receives a majority "yes" vote than those persons who serve as members of the governing boards of both a community college district and any such unified school district shall, on or before June 1, 1973, choose on which of the two boards they will continue to serve. Those persons who choose to serve as members of either the governing boards of a community college district or the governing board of any such unified school district shall continue to serve also as members of the governing board from which they have chosen to withdraw until their successors on such boards are elected after June 1, 1973, and have assumed office. If the city charter of the city in which the unified school district is located in whole or in part governs the appointment, nomination, or election of members of the governing board of the unified school district, the new governing board of the community college district also shall be governed by such city charter so that the separate governing boards of both the unified and community college districts after June 1, 1973, shall be appointed or nominated and elected at the same elections, under the same conditions and for the same terms of office set forth in such city charter.

(c) The election of the members of the first community college governing board shall be conducted no later than the next election held for the nomination and election of governing board members

of the unified district and under the same conditions and for the same terms of office pursuant to city charter except as set forth below. Prior to such elections, and only for those elections, the governing board of the unified district shall designate three positions on the new community college district governing board for which the initial term of office shall be four years and two positions for which the initial term of office shall be two years. Thereafter, all elections of the governing board members of the community college district shall be held under the same conditions, at the same times, and for the same terms as elections for the unified district governing board pursuant to city charter. The governing board of the unified district shall continue to govern the community college district until members of the new governing board of the community college district are elected and qualified to serve, at which time the governance of the community college district shall pass to the new governing board of the community college district.

(d) The governing board of the unified district may, if it deems such action appropriate, call two special elections within the community college district prior to the dates set forth by law for the primary and general elections of members of the governing board of the unified district, for the purpose of permitting the people of the community college district to nominate and elect governing board members of the community college district at the earliest possible time after the November 7, 1972, election. If such special primary and general elections are called, the governing board of the unified district shall designate for such elections, and only for such elections, (1) three positions on the new community college district governing board for which the initial term of office shall be four years plus the necessary number of days to allow such term to end on the same date as the end of the term of a member of the unified district governing board whose term expires in December, 1977, and (2) two positions on the new community college district governing board for which the initial term of office shall be two years plus the necessary number of days to allow such term to end on the same date as the end of the term of a member of the unified district governing board whose term expires in December, 1975. Such elections shall be held, insofar as possible, under the same conditions as elections for the unified district governing board pursuant to a city charter. Thereafter, all elections of governing board members of the community college district shall be held under the same conditions, at the same times, and for the same terms as elections for the unified district governing board pursuant to a city charter. The governing board of the unified district shall continue to govern the community college district until members of the new governing board of the community college district are elected and qualified to serve, at which time the governance of the community college district shall pass to the new governing board of the community college district.

(e) Each member of the separate governing board of the community college district shall receive the same compensation as

received by members of the separate governing board of the unified district under Section 72425, notwithstanding any requirements to the contrary contained in such section.

(f) Notwithstanding subdivisions (c) and (d) of this section, if a person serving on the common governing board chooses, prior to June 1, 1973, to serve on the governing board of the community college district, he shall serve as a member of the community college district governing board until the expiration of the term of the office to which he was last elected as a member of that board.

## CHAPTER 2. MEETINGS AND MEMBERS

### Article 1. Membership

72100. Within 20 days after the appointment or election of the interim or initial governing board of any newly formed district, the county superintendent of schools having jurisdiction over the district shall call a meeting of the board, by giving each member of the board at least 10 days' notice of such meeting by registered mail. At the meeting the board shall appoint such officers as boards of its class are required to appoint at annual meetings pursuant to Chapter 4 (commencing with Section 72400), of this part, name the district pursuant to Article 1 (commencing with Section 72000) of Chapter 1 of this part, and may conduct or transact any other business relating to the affairs of the district which can properly be conducted or transacted at a regular meeting of the board.

72101. In newly formed districts for which an interim governing board is appointed by the county superintendent of schools, a governing board member election shall be held:

(a) When the action necessary for the formation of a new community college district is completed on or before the first of January of any odd-numbered year, on the first Tuesday after the first Monday in March of such year.

(b) When the action necessary for the formation of a new community college district is completed after the first of February of any year, whether even-numbered or odd-numbered, on the first Tuesday after the first Monday in March of the next succeeding year.

The terms of the members elected at the initial election shall begin on the first day of April, and the terms of their predecessors shall expire on the 31st day of March, following the election.

72101.5. Subject to the procedures prescribed by Section 5007 with respect to newly formed community college districts, the majority of members of the first elected board of any newly formed community college district, the members of which majority received the highest number of votes, shall serve until March 31 of the second succeeding odd-numbered year. The other members' terms shall expire on March 31 of the first succeeding odd-numbered year. All such members shall continue in office until their successors are elected and qualified.

72102. When a member of the governing board of a community college district which is being reorganized and which will cease to exist takes office as a member of the initial or interim governing board of a newly formed community college district, he shall cease to be a member of the governing board of the district being reorganized.

The county board of education shall then appoint another person who is eligible to serve on the governing board of the district being reorganized to the vacant position for the duration of the existence of the district being reorganized, but in no case for longer than 12 months.

72103. Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the community college district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a community college district.

72104. No member of the governing board of a community college district shall, during the term for which he was elected, be eligible to serve on the governing board of a high school district whose boundaries are coterminous with those of the community college district.

72105. In any community college board member election including recall elections, at least one polling place in each of the elementary and unified school districts located in the community college district shall be designated; provided, that, except when a consolidated election is being conducted in which the suspended district participates, a suspended elementary school district may be combined with a contiguous elementary school district for the purpose of the election and the voters of both shall vote at the polling place designated in the active school district.

## Article 2. Meetings

72120. Subject to the provisions of this article the governing board of any community college district shall by rule and regulation fix the time and place for its regular meetings. Such action shall be proper notice to all members of the board of the regular meetings.

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 76041 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public. Until the governing board adopts such minutes as the official minutes, such minutes shall be labeled the unadopted minutes. The official minutes

shall also constitute public records and shall be available to the public.

(b) A list of items that will constitute the agenda for all regular meetings shall be posted at a place where parents and teachers may view the same at least 48 hours prior to the time of said regular meeting, and, in the case of special meetings, at least 24 hours prior to said special meeting.

72122. Notwithstanding the provisions of Section 72121 of this code and Section 54950 of the Government Code, the governing body of a community college district shall, unless a request by the parent has been made pursuant to this section, hold executive sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any student of the community college district, if a public hearing upon such question would lead to the giving out of information concerning students which would be in violation of Section 48950 of this code.

Before calling such executive session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the student is a minor, notify the student and his parent or guardian, or the student if the student is an adult, of the intent of the governing board of the district to call and hold such executive session. Unless the student, or his parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in executive session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any student other than the student requesting the public meeting or on behalf of whom such meeting is requested, shall be in executive session. Whether the matter is considered at an executive session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

72123. Each member of the governing board of a community college district may be allowed for travel necessary to attend annual, regular monthly, and special meetings of the governing board the rate of mileage determined by the governing board. Mileage shall not be allowed to any member to attend any meeting except for travel required in excess of 10 miles. Orders for travel allowances shall be drawn upon the funds of the district and signed by a majority of the governing board exclusive of the payee.

72124. The first meeting of any newly elected or appointed community college district governing board, and any annual meeting required by law to be held by such board for purposes of its organization, shall be deemed a regular meeting of the board for purposes of any requirement of law that periodic meetings shall be

held by such board, and the regular business of the board may be transacted at such a meeting.

72125. (a) The governing board of each community college district shall hold an annual organizational meeting. In a year in which a regular election for governing board members is conducted, the meeting shall be held on a day within a 15-day period that commences with the date upon which a governing board member elected at that election takes office. Organizational meetings in years in which no such regular election for governing board members is conducted shall be held during the same 15-day period on the calendar. Unless otherwise provided by rule of the governing board, the day and time of the annual meeting shall be selected by the board at its regular meeting held immediately prior to the first day of such 15-day period, and the board shall notify the county superintendent of schools of the day and time selected. The secretary of the board shall, within 15 days prior to the date of the annual meeting notify in writing all members and members-elect of the date and time selected for the meeting.

If the board fails to select a day and time for the meeting, the county superintendent of schools having jurisdiction over the district shall, prior to the first day of such 15-day period and after the regular meeting of the board held immediately prior to the first day of such 15-day period, designate the day and time of the annual meeting. The day designated shall be within the 15-day period. He shall notify in writing all members and members-elect of the date and time.

At the annual meeting, the governing board of the community college district shall organize by electing a president from its members and a secretary.

(b) As an alternative to the procedures set forth in subdivision (a), in a community college district the boundaries of which are coterminous with the boundaries of a city and county, the governing board members of which district are elected in accordance with a city and county charter, the annual organizational meeting of the governing board may be held between January 8 and January 31, inclusive, as provided in rules and regulations adopted by the board. At the annual organizational meeting each such community college district governing board shall organize by electing a president and vice president from its members.

72126. Every community college board shall hold regular monthly meetings at such times as may be provided in the rules and regulations adopted by them for their own government, except that in community college districts composed of two or more high school districts, the regular meetings may be quarterly.

72129. Special meetings may be held at the call of the president of the board or upon a call issued in writing and signed by a majority of the members of the board, except that by unanimous consent a special meeting may be convened at any time.

72130. The date set or special meetings shall be at least 24 hours subsequent to the completion of the call.

72131. No business shall be transacted at a special meeting other than that specified in the call, except that by unanimous consent any business matter may be transacted at any special meeting.

72132. The community college board shall meet in a public building which is owned or leased by the community college district, or if in the judgment of the governing board, the interests of the district may be better served by holding its meetings elsewhere, it may meet at such other place in the community college district, high school districts, unified districts, or any combination thereof served by such community college district as it may by resolution determine.

A notice identifying the location, date, and time of the meeting shall be posted in each community college maintained by the district at least 10 days prior to the meeting and shall remain so posted to and including the time of the meeting.

### CHAPTER 3. POWERS AND DUTIES

#### Article 1. General Provisions

72200. The governing board of a community college district may execute any powers delegated by law to it or to the district of which it is the governing board, and shall discharge any duty imposed by law upon it or upon the district of which it is the governing board.

72201. In the name by which the district is designated the governing board may sue and be sued, and hold and convey property for the use and benefit of the community college district.

72202. Every official action taken by the governing board of every community college district shall be affirmed by a formal vote of the members of the board, and the governing board of every community college district shall keep minutes of its meetings, and shall maintain a journal of its proceedings in which shall be recorded every official act taken.

72203. The governing board shall act by majority vote of all of the membership constituting the governing board.

72204. Notwithstanding any other provision of law, if a community college district governing board consists of seven (7) members and not more than two vacancies occur on the governing board, the vacant position or positions shall not be counted for purposes of determining how many members of the board constitute a majority; and, whenever any of the provisions of this code require unanimous action of all or a specific number of the members elected or appointed to the governing board, the vacant position or positions shall be excluded from determination of the total membership constituting the governing board.

72205. The governing board of each community college district shall establish and maintain a historical inventory, or an audit trace inventory system, or any other inventory system authorized by the board of governors, which shall contain the description, name,

identification numbers, and original cost of all items of equipment acquired by it whose current market value exceeds two hundred dollars (\$200) per item, the date of acquisition, the location of use, and the time and mode of disposal.

72206. The governing board of a community college district having more than one college may appoint an advisory committee of not more than five members from each college to advise the governing board concerning the needs of that college. The members of such advisory committees shall serve at the pleasure of the governing board.

72207. The governing board of a community college district may secure copyrights, in the name of the district, to all copyrightable works developed by the district, and royalties or revenue from said copyrights are to be for the benefit of the district securing said copyrights.

72208. The governing board of a community college district shall adopt and cause to be printed and made available to each certificated employee of the district reasonable rules and regulations providing for the evaluation of the performance of certificated employees in their assigned duties.

72209. No governing board of a community college district shall require any minor student to be transported for any purpose or for any reason without the written permission of the parent or guardian.

This section shall not apply to the transportation of a student in an emergency arising from illness or injury to the student.

72210. No community college student shall, because of his race, creed, or color, be assigned to or be required to attend a particular community college.

## Article 2. Powers and Duties

72230. Every community college district shall be under the control of a board of trustees.

72231. The governing board of each community college district shall prescribe and enforce rules not inconsistent with law or with the rules prescribed by the board of governors, for its own government.

72231.5. The district governing board shall:

(a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district.

(b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval.

72233. On and after January 1, 1976, the governing board of any community college district, may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not

in conflict with the purposes for which school districts are established.

72234. The governing board of any community college district shall maintain schools and classes as provided by law.

72236. The governing board of any community college district shall visit each school in its district at least once each term, and examine carefully into the management, needs, and conditions of the schools. In any district which employs district superintendents of schools, it shall either visit the schools or provide that they shall be visited by the district superintendent of schools or his assistants.

72237. The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas, and registration privileges, or any combination thereof, shall be withheld from any student or former student properly charged with the possession of library books or other library materials when such books or materials are not returned to the library when due.

Grades, transcripts, diplomas, and registration privileges shall be released from the prescribed restrictions when the student either:

(a) Returns the overdue library books or other library materials;  
or

(b) Pays the charge for the replacement of the library books or other library materials, if such books or materials were lost.

72239. The governing board of a community college district may rent or purchase academic caps and gowns for faculty use at ceremonies.

72240. The governing board of a community college district may employ as a community college instructor of an academic subject matter area or areas a person who does not hold a credential issued by the Board of Governors of the California Community Colleges authorizing such service if the person has been granted a master's degree or a doctor's degree in the academic subject matter area for which he is employed to teach. No such person shall teach classes in grades below grades 13 and 14 in any community college. No such person shall be employed for an aggregate period which is greater than three school years unless he fulfills the requirement of Section 87215.

No person shall be employed pursuant to this section until he has complied with the prerequisites to issuance of a certification document prescribed by Sections 87214, 87216, 87219, and 87220, and no person shall be so employed who has been determined to come within any of the provisions of Section 44345 or Section 44346. The board of governors shall make necessary provision for enforcing compliance with the preceding sentence.

The governing board of each community college district shall, in the manner and form prescribed by the board of governors, promptly after the close of each school year file with the board of governors a report identifying each person employed pursuant to this section during the preceding school year and certifying that all

applicable laws, rules, and regulations were complied with in his employment. The board of governors shall compile and maintain a roster of the individuals employed under this section, to be utilized in administering the provisions of this section.

Any person employed pursuant to this section shall be deemed to be a certificated employee in a position requiring certification qualifications for all purposes.

For the purposes of this section "academic subject matter area" refers exclusively to the natural sciences, the social sciences (other than education and educational methodology), the humanities, mathematics, and the fine arts. The board of governors may consider a given subject matter major, whatever its title, to be an academic subject matter major if it finds that at the specific institution the required courses and the content of such courses within the major are equivalent to those of an academic subject matter major.

72240.5. Notwithstanding any other provision of law to the contrary, the governing board of any community college district may employ any student enrolled in the district who is an exconvict or who is on parole, other than a person determined to be a sexual psychopath, to perform noninstructional duties and such student workers shall not be considered to be classified employees.

72241. The governing board of any community college district may accept on behalf of, and in the name of, the district such gifts, donations, bequests, and devises as are made to the district for community college purposes or to or for the benefit of any community college administered by the district. Such gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the governing board may prescribe. In no event shall the approval of any state agency be a prerequisite to acceptance of such a gift, donation, bequest, or devise. No real or personal property, including money, accepted by a governing board pursuant to this section shall be considered in determining the eligibility of the district for an apportionment from the State School Fund nor in determining the amount thereof.

72242. The governing board of any community college district may authorize faculty members and students of that college to participate in cocurricular activities conducted within or without the state held in conjunction with the educational program of the college. The governing board may authorize payment of travel and other necessary expenses of participants in these activities pursuant to rules and regulations adopted by the governing board. These payments shall be a proper charge against district funds.

As used in this section, "cocurricular activities" means those activities and events which are designed to complement the academic program of the community college and which meet all the following criteria:

- (a) The activity or event is approved by the governing board.
- (b) Students of the community college are participating in the activity or event.

(c) The activity or event is supported in part from nondistrict funds.

(d) The activity or event is an extension of classroom instruction or related community college programs.

72243. (a) The governing board of any community college district may establish an account for each cocurricular activity with designations such as "the music account," "the journalism account," or "the drama account." All income derived from each designated cocurricular activity shall be deposited in the account for expenditures for the operation of the cocurricular activity maintaining the account, in accordance with the rules and regulations of the governing board.

(b) The governing board may designate an employee or employees of the district as the custodian of the account or accounts and such person or persons shall be responsible for the payment into the account or accounts of all moneys received for or to be paid into the account or accounts, and for all expenditures therefrom, subject to the rules and regulations of the governing board.

(c) As used in this section, "cocurricular activities" has the same meaning as defined in Section 72242.

72244. The governing board of any community college district may provide health supervision and services, including direct or indirect medical and hospitalization services, and operate a student health center or centers wherein students in grades 13 and 14 and other persons authorized by the governing board may be diagnosed and treated. School physicians shall be authorized to provide medical treatment at such centers.

72245. The governing board of a community college district may impose a fee on a participating student for the additional expenses incurred when physical education courses are required to use nondistrict facilities.

72246. (a) The governing board of a district maintaining a community college may require of pupils in attendance in grades 13 and 14, the payment of a fee in the total amount of not more than ten dollars (\$10) for the regular school year for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both.

(b) If pursuant to this section a fee is required, the governing board of a district shall prorate the amount of the fee, if any, that a part-time student, including a summer school student or evening student is required to pay.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that either exempt low-income students from any fee required pursuant to subdivision (a) or provide for the payment of the fee from other sources.

(d) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt students who depend exclusively upon prayer for healing in accordance with the

teachings of a bona fide religious sect, denomination, or organization and students who are attending a community college under an approved apprenticeship training program from any fee required pursuant to subdivision (a).

(e) All of such fees shall be deposited in the general fund of the district, and shall be expended only for the purposes for which such fees were collected.

72247. The governing board of a community college district may require of students in attendance in grades 13 and 14 and employees of the district, the payment of a toll, in an amount not to exceed twenty dollars (\$20) per semester or forty dollars (\$40) per regular school year to be fixed by the board, for parking services.

Such toll shall only be required of students and employees using such services.

All such tolls collected shall be deposited in the general fund of the district and shall be expended only for parking services or for purposes of reducing the costs to students and faculty of the college of using public transportation to and from the college.

Tolls collected for use of parking services provided for by investment of student body funds under the authority of Section 76064 shall be deposited in a special fund for repayment to the student organization.

“Parking services,” as used in this section, means the purchase, construction, and operation and maintenance of parking facilities.

72248. (a) The governing board of a community college district may require of students in attendance in grades 13 and 14 and employees at a campus of the district the payment of a fee for purposes of reducing fares for services provided by common carriers or municipally owned transit systems to such students and employees, as provided in subdivision (b).

(b) Fees authorized by subdivision (a) for transportation services may be required only of students and employees using such services, or, in the alternative, of either of the following groups of people:

(1) Upon the favorable vote of a majority of the students and a majority of the employees of a campus of the district, voting at an election on the question of whether or not the governing board should require all students and employees at the campus to be assessed fees for transportation services for a two-year period, the fees may be required of all students and all employees of a campus of the community college district; or

(2) Upon the favorable vote of a majority of the students at a campus of the district voting at an election on the question of whether or not the governing board should require all students to be assessed fees for transportation services for a two-year period, the fees may be required of all students at the campus of the community college district; provided that the employees shall not be entitled to use such services.

(c) In the event that fees are required to be assessed to all students and employees or all students as provided in subparagraphs

(1) and (2) of subdivision (b) for a two-year period, such authorization may be continued for additional two-year periods by the governing board maintaining the campus, upon the favorable vote of a majority of the students and a majority of the employees or, in the case of subdivision (b) (2), upon the favorable vote of a majority of the students of such campus, voting in an election on the question of whether or not such required fees should be continued.

(d) If pursuant to this section a fee is required of students for transportation services, any fee required of a part-time student shall be a pro rata lesser amount than full-time students, depending on the number of units for which such part-time student is enrolled. In addition, a governing board maintaining transportation services shall adopt rules and regulations governing the exemption of low-income students from required fees, and may adopt rules and regulations that provide for the exemption of others.

(e) The total fees to be fixed by the governing board of a community college district pursuant to this section and Section 72247 shall not exceed the amount prescribed in Section 72247.

72250. The governing board of a community college district may impose a fee, not to exceed one dollar (\$1), for the actual pro rata cost for services relative to a program change consisting of adding or dropping one or more courses any time after two weeks from the commencement of instruction in any term. Such fee shall not be charged for changes initiated or required by the community college.

72251. The governing board of any community college district may impose a late application fee of not to exceed two dollars (\$2) for any application for admission or readmission which is filed after the date established by the governing board for the filing of applications for admission or readmission to the community college.

72252. Notwithstanding any provisions to the contrary, at the request of a community college district, the chancellor may approve a program of studies on a quarter system or a trimester basis in accordance with rules and regulations prescribed by the Board of Governors of the California Community Colleges.

72253. The governing body of any community college district may by rule or regulation provide for the payment of the costs of replacing or repairing property of an employee, such as eyeglasses, hearing aids, dentures, watches, articles of clothing necessarily worn or carried by the employee, or vehicles when any such property is damaged in the line of duty without fault of the employee or if such property is stolen from the employee by robbery or theft while the employee is in the line of duty. If the property is damaged beyond repair or stolen, the actual value of such property may be paid. The value of such property shall be determined as of the time of the damage thereto or the robbery or theft. Limits may be established for the payment for such damaged or stolen property.

In the event the employee is paid the costs of replacing or repairing such property, or the actual value of such property, the community college district shall, to the extent of such payments, be

subrogated to any right of the employee to recover compensation for such damaged or stolen property. The community college district may file and prosecute an action to enforce its subrogation right in the *small claims court if the amount of the claim is within that court's monetary jurisdiction* or may enforce its subrogation right in any other court of competent jurisdiction.

72254. The governing board of a community college district may by resolution limit campaign expenditures or contributions in elections to district offices.

### Article 3. Delineation of Functions

72280. By enacting this article the Legislature declares its intent to more specifically delineate the powers, duties, and functions of the community college district governing boards and the powers, duties, and functions of the Board of Governors of the California Community Colleges. This article shall be construed as an expression of the policy of the Legislature with regard to the functions of the above-mentioned boards, but shall not be construed as an enactment of specific legal provisions. Nothing contained in this article shall supplant existing law. Upon passage of this article by the Legislature, however, the Board of Governors of the California Community Colleges is hereby directed to take whatever steps are necessary to implement the policies contained in this article.

72281. As used in this article, "board of governors" means the Board of Governors of the California Community Colleges. "District governing board" means the governing board of a community college district. "District" means a community college district.

72282. The district governing board shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district and delegate appropriate authority to officers, employees or committees of the district, the college, or the governing board.

72283. The district governing board shall:

(a) Establish policies for, and approve, the total educational program of the community college or colleges in the district.

(b) Approve all classes for adults and shall submit such classes as are eligible for state apportionments to the board of governors for approval.

(c) Approve and provide such classes, programs and facilities under the provisions of the Community Service Act, the Civic Center Act, and the Recreation Act as deemed appropriate.

(d) Establish policies for, and approve, all other programs and services of the community college except as provided in Section 78200.

(e) Establish policies for, and approve, procedures for the adoption of instructional materials.

72284. The district governing board shall determine which

holidays it will observe and on what days it will observe them within the framework of providing the necessary number of days of instruction to qualify for state apportionments.

72285. The district governing board shall establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

72286. The district governing board shall determine and control the district's operational and capital outlay budgets and shall present the budgets to county authorities for the purposes of establishing the district tax rates. The district governing board shall determine the need for elections for override tax levies and bond measures and to request that such elections are called.

72287. The district governing board shall manage and control district property. The district governing board may contract for the procurement of such goods and services as authorized by law.

72288. The district governing board may receive and administer gifts, grants, and scholarships.

72289. The district governing board may establish such student fees as it is authorized to establish by law.

72290. The district governing board shall employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors. The district governing board shall establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

72291. The district governing board shall provide such auxiliary services as deemed necessary to achieve the purposes of the community college.

72292. The district governing board shall establish rules and regulations governing student conduct. The district governing board shall establish procedures not inconsistent with those established by the board of governors to insure faculty and students the opportunity to express their opinions at the campus level.

72293. The district governing board is authorized to apply directly to federal agencies or state agencies operating federal programs in order to obtain federal funds in accordance with general policies established by the board of governors.

#### Article 4. Powers—Property

72300. The governing board of any community college district may select and acquire sites within the boundaries of the district, and may acquire or construct thereon school facilities, as provided by law.

72300.5. The governing board of any community college district may acquire by eminent domain any property necessary to carry out any of the powers or functions of the district.

72301. The governing board of any community college district may acquire property, construct buildings, and maintain classes

outside its boundaries on sites immediately adjacent to school sites of the district within its boundaries.

72302. The governing board of any community college district may acquire and pay for educational and athletic equipment, supplies and materials, and other personal property necessary to its operation of the schools, as provided by law.

72303. The governing board of any community college district may accept on behalf of, and in the name of, the district, such gifts, donations, bequests, and devises as are made to the district or to or for the benefit of any college administered by the district. Such gifts, donations, bequests and devises may be made subject to such conditions or restrictions as the governing board may prescribe. In no event shall the approval of any state agency be a prerequisite to acceptance by the governing board of a community college district of such a gift, donation, bequest, or devise.

72304. Where a gift of land has been accepted by the governing board of a community college district upon condition or agreement that the same be devoted to school purposes of the district, whether such condition or agreement is written or oral and whether the terms thereof are recited or referred to in any instrument executed in connection with the conveyance of the gift, and the board subsequently determines that the land cannot feasibly be utilized for any school purpose of the district, the board may cause the same to be reconveyed to the donor without consideration to the district; provided, that failure to do so shall not affect the rights of any bona fide purchaser or encumbrancer of such land.

72305. The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new school facilities and school sites or major additions to existing school facilities shall file, at least annually, a report with the board of governors setting forth its plans to achieve (a) a greater use of any joint or contiguous recreation and park facilities by the schoolchildren and (b) possible use by the total community of such school facilities and school sites and recreation and park facilities.

72306. Notwithstanding any other provision of law, in the event there are two or more identical lowest or highest bids, as the case may be, submitted to a school district for the purchase, sale, or lease of real property, supplies, materials, equipment, services, bonds, or the awarding of any contract, pursuant to a provision requiring competitive bidding, the governing board of any community college district may determine by lot which bid shall be accepted.

### Article 5. Community Participation

72320. This article shall be applicable only to community college districts located in a county with a population in excess of 800,000, as measured in the 1970 federal census.

72321. The governing board of a community college district may implement any one or more of the following procedures to achieve greater community participation in the operation of the community college district:

(a) Retaining the present pattern of board representation of trustee areas and administrative organization, increase the involvement of students, faculty, and the community so as to make it more effective and more satisfying to the participants.

(b) Strengthen board relationships to the area each trustee represents by greater involvement of the community through advisory boards established geographically to serve as a source of information and recommendation for each board member.

(c) Establish at each college in the district, in a form developed at the college and approved by the governing board, a five-member advisory committee in accordance with Section 1005.

(d) Develop a district plan for selecting community representatives, to be implemented at each college in accordance with guidelines established by the governing board.

### Article 6. College Police

72330. The governing board of a community college district may establish a community college police department and employ, in accordance with the provisions of Chapter 4 (commencing with Section 88000) of Part 51 of this division such personnel as may be necessary for its needs.

Persons employed and compensated as members of a community college police department, when so appointed and duly sworn, are peace officers only upon the campus of the community college and in or about other grounds or properties owned, operated, controlled, or administered by the community college, or the state on behalf of the community college.

72331. Every member of a community college police department shall be supplied with, and authorized to wear, a badge bearing the words "Community College Police", prefaced by the name of the district, and shall be issued a suitable identification card bearing his physical description, photograph, and authority for peace officer status, countersigned by the chief administrative officer of the district. The governing board may direct the wearing of a distinctive uniform and shall prescribe such a uniform. The governing board shall pay for the required uniforms, equipment, identification cards, and badges.

72332. The governing board of a community college district which establishes a police department may provide and maintain

motor vehicles for the use of the patrol. Any vehicle, when operated in the performance of his duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

72333. Persons employed and compensated as members of a police department of a community college district, when appointed and duly sworn, are peace officers, as defined by Section 830.4 of the Penal Code, but only for the purpose of carrying out the duties of their employment.

72334. Persons employed and compensated as members of a police department of a community college district shall be supplied with and authorized to wear a badge bearing the name of the district. The employee shall carry a suitable identification card bearing his photograph and signature and the signature of the superintendent of the community college district, and such other identification data as may be required by local law enforcement agencies. The governing board may direct the wearing of a distinctive uniform and shall prescribe same. The costs of required uniforms, equipment, identification badges and cards shall be borne by the district.

72335. The governing board of a community college district which establishes a police department may provide and maintain motor vehicles for the use of the police. Any vehicle, when operated in the performance of his duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

#### Article 7. Instructions From Electors

72340. The governing board of a community college district having a city board of education, may, and upon a petition signed by a majority of the electors resident in the district shall, call meetings of the qualified electors of the district for consultation in regard to any affairs in the district. A meeting so called shall be competent to instruct the governing board, and the board shall, in all cases, be bound by such instructions upon the following subjects:

(a) The location or change of location of the schoolhouse, if the proposal to instruct the board in regard to changing the location of the schoolhouse is passed by a vote of two-thirds of all the electors voting at the meeting upon the proposition.

(b) The use of the community college for other than school purposes, but in no case shall the community college be used for purposes which necessitate the removal of any school desks or other school furniture.

(c) The sale and purchase of school sites.

(d) The prosecution, settlement, or compromise of any litigation in which the district is engaged, or is likely to become engaged.

The meeting may vote money not exceeding one hundred dollars (\$100) in any one year, for any of these purposes in addition to any amount which may be raised by the sale of district school property,

and the insurance of property destroyed by fire, except that the proceeds of the insurance of the library and apparatus shall be paid into the library fund. All funds raised by the sale of school property may be disposed of by direction of a district meeting.

72341. The meeting provided for in Section 72340 shall be called by posting three notices in public places, one of which shall be in a conspicuous place at the community college campus, for not less than 10 days prior to the time for which the meeting is called. The notices shall specify the purposes for which the meeting is called, and no other business shall be transacted at the meeting.

72342. Any district meeting called pursuant to Sections 72340 and 72341 shall be organized by choosing a chairman from the electors present. The district clerk or secretary shall be clerk of the meeting, and shall enter the minutes on the records of the district. Any district meeting may be adjourned from time to time as found necessary. All votes instructing the board of trustees shall be taken by ballot, or by "ayes" and "noes" vote as the meeting may determine.

#### CHAPTER 4. OFFICERS AND AGENTS

72400. The governing board of each community college district shall fix and prescribe the duties to be performed by all persons in public school service in the district.

72401. Notwithstanding any other provisions of law, any person may be permitted by the governing board of any community college district to perform the duties specified in Section 87711 or 87712, or to serve as a nonteaching volunteer aide under the immediate supervision and direction of the certificated personnel of the district to perform noninstructional work which serves to assist such certificated personnel in performance of teaching and administrative responsibilities. Such a nonteaching volunteer aide shall not be an employee of the district and shall serve without compensation of any type or other benefits accorded to employees of the district, except as provided in Section 72509 and Section 3364.5 of the Labor Code.

No district may abolish any of its classified positions and utilize volunteer aides, as authorized herein, in lieu of classified employees who are laid off as a result of the abolition of a position; nor may a district refuse to employ a person in a vacant classified position and use volunteer aides in lieu thereof.

It is the intent of the Legislature to permit community college districts to use volunteer aides to enhance its educational program but not to permit displacement of classified employees nor to allow districts to utilize volunteers in lieu of normal employee requirements.

72402. Every community college district governing board consisting of five or more members shall, at its initial meeting and at each annual meeting, elect a president from among its members.

72403. The governing board of each community college district

shall annually at its initial meeting select one of its members as its representative who shall have one vote for each member to be elected to the county committee provided by Article 4 (commencing with Section 4290) of Chapter 2 of Part 3 of Division 2 of Title 1. The secretary or clerk of the district shall furnish the county superintendent of schools with a certificate naming the representative selected by the board.

72404. The governing board of any community college district may appoint an executive committee. In the case of a governing board which has appointed a clerk, the committee shall consist of the president, the clerk, and one other member of the board. In the case of a governing board which has not appointed a clerk the committee shall consist of the president and two members of the board. The committee shall attend to the routine business of the board. Its action shall be reported to the board for ratification at its first meeting ensuing.

72405. The governing board of any community college district may employ a person not a member of the board to act as secretary and bookkeeper for the board, and may delegate to such secretary the duties prescribed in subdivisions (a) and (c) of Section 72600.

72406. The governing board of any community college district may employ a district superintendent for one or more schools and may delegate to the district superintendent any of the duties provided for in Section 72600.

72407. The governing board of a community college district employing a district superintendent and having an average daily attendance of 1,500 or more students may employ such deputy, associate, and assistant superintendents as the board deems necessary.

72408. No person shall be eligible to hold a position as district superintendent, deputy superintendent, associate superintendent, or assistant superintendent of community colleges unless he is the holder of both a valid school administration certificate and a valid instructor's certificate, but any person employed as a deputy, associate, or assistant superintendent in a purely clerical capacity shall not be required to hold any certificate.

72409. A community college governing board may waive any credential requirement for the chief administrative officer of the community college district under its jurisdiction. Any individual serving as the chief administrative officer of a community college district who does not hold a credential may be required by the local governing board to pursue a program of in-service training conducted pursuant to guidelines approved by the board of governors.

No individual serving as the chief administrative officer of a community college district shall be subject to the provisions of the merit system specified in Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of this division or any other similar merit system.

72410. No governing board shall affix the title of deputy, associate or assistant superintendent to any position not defined by this code as a position requiring certification qualifications or which does not qualify under the provisions set forth by the Board of Governors of the California Community Colleges as a position requiring certification qualifications; except that any such title may be assigned to the position of business manager or a related business position but such position shall not, if so designated, be deemed to be a position requiring certification qualifications nor shall the employee be deemed to be a certificated employee.

72411. Any superintendent of schools, or deputy, associate, or assistant superintendent of schools, may be elected for a term of four years. The governing board of a community college district, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the superintendent of schools, or any associate, deputy, or assistant superintendent of schools of the district, and reelect or reemploy the employee, on such terms and conditions as may be mutually agreed upon by the board and the employee, for a new term to commence on the effective date of the termination of the existing term of employment. In the event the governing board of a district determines the superintendent of schools of the district is not to be reelected or reemployed as such superintendent upon the expiration of his term, the superintendent of schools shall be given written notice thereof by the governing board at least six months in advance of the expiration of his term. In the event the governing board of a district fails to reelect or reemploy the superintendent of schools of the district as such superintendent and the written notice herein provided for has not been given, the superintendent shall be deemed reelected for a term of the same length as the one completed, and under the same terms and conditions and with the same compensation.

72411.5. A superintendent, assistant superintendent, or deputy superintendent of a community college district shall be employed, and the president of a community college may be employed, by the governing board of the district by a contract not to exceed four years. The contract may be extended for periods of no more than four years at the discretion of the governing board. The dismissal and imposition of penalties on a superintendent or president employed by contract pursuant to this section shall be in accordance with the terms of the contract of employment.

72412. Notwithstanding Section 72411, the governing board of a community college district may at any time during any school year increase the salaries of any superintendent of schools and deputy, associate, or assistant superintendent of schools without terminating the term of employment of, and reelecting or reemploying, such employee and such increase may be effective on any date ordered by the governing board.

72413. The superintendent of each community college district shall, in addition to any other powers and duties granted to or imposed upon him:

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

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

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

(d) Upon adoption, by the district board, of a district policy concerning transfers of instructors from one campus or college to another campus or college within the district, have authority to transfer instructors consistent with such policy.

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

(f) Enter into contracts for and on behalf of the district pursuant to Section 81655.

(g) Submit reports showing the financial and budgetary conditions of the district, including outstanding obligations, to the governing board at least once every three months during the school year.

72414. The clerk of a community college district shall perform all duties prescribed in Section 72600 not delegated by the governing board to the secretary or to the district superintendent.

72416. In any community college district the governing board of which is required to elect a clerk, the superintendent of schools of the county shall appoint one of the members of the governing board to fill the office of district clerk if a clerk is not elected by the governing board on the date prescribed, or if, except as provided in Section 72417, a vacancy occurs in the position of district clerk.

72417. If the clerk of the community college district refuses to perform the duties prescribed in Section 72600 or by the governing board, the board may at a regular meeting dismiss him and appoint another member clerk. It shall immediately notify the superintendent of schools of the county of its action.

72418. The clerk, secretary, and superintendent of the

community college district shall, in addition to the duties prescribed by this chapter, perform such other duties as may be prescribed by the governing board of the district.

72419. Anything in a city, county, or city and county charter to the contrary notwithstanding, the governing board of a community college may appoint an administrative adviser and fix and order paid his compensation. The duties of the administrative adviser are to render administrative advice to the superintendent of community colleges and to other officers and employees of the district such other administrative duties as may be assigned by the superintendent and the governing board of the district, and to assist the legal counsel of the district in the preparation and conduct of district litigation. The employee shall have been admitted to practice law in the state, and shall not be required to have any certification qualifications.

72419.5. Anything in a city, county, or city and county charter to the contrary notwithstanding, the governing board of any community college district or the governing boards of any community college districts and any county superintendent of schools may, in lieu of appointing an administrative adviser pursuant to Section 72419, appoint a legal counsel and fix and order paid his compensation. The duties of the legal counsel may include rendering legal advice to the superintendent of schools and to other officers and employees of the community college district or districts and such other administrative duties as may be assigned by the superintendent of schools and the governing board of the district or governing boards of the districts, and serving as the legal counsel of the district or districts in the preparation and conduct of school district litigation and administrative proceedings, and rendering advice in relation to school bond and tax increase measures and prepare all legal papers and forms necessary for the voting of school bonds and tax increase measures in the district or districts. The person appointed as legal counsel shall have been admitted to practice law in the state, and shall not be required to have any certification qualifications.

Neither the county counsel or district attorney shall have a duty to perform for a school district or districts any legal services which the legal counsel, while employed by such district or districts, is authorized by this section to perform and which are assigned to legal counsel by the superintendent of schools or the governing board of a district or governing boards of the districts.

In the event a district or districts ceases to employ legal counsel and requests the resumption of legal services by the county counsel or district attorney, the district or districts shall notify the county counsel or district attorney of such fact on or before January 1 of the year preceding the fiscal year in which services are to be resumed.

72420. The governing board of any community college district, may contract for the services of an attorney in private practice or utilize an administrative adviser to prepare and conduct district litigation, or to assist it in the preparation and conduct of district

litigation, and compensation of such attorney pursuant to contract shall be a proper use of district funds but the district shall first obtain the written views of the district attorney or county counsel as to the merits of the litigation and the form of the proposed contract of employment with the private attorney. The district attorney or the county counsel shall furnish his written views within seven days from the time he is requested by the governing board of the district.

72421. The governing board of any community college district, may, with the concurrence in writing of the district attorney or county counsel having jurisdiction thereof, contract with a qualified attorney in private practice to provide specialized legal services. Compensation of such attorney in private practice pursuant to contract under this section shall be a proper use of district funds, but the district shall first obtain the written views of the district attorney or county counsel, which shall be furnished within seven days from the time of the request by the governing board, as to the need for specialized legal services and on the form of the proposed contract with the private attorney.

72422. Whenever in their judgment it is deemed advisable, the governing boards of any two or more community college districts may jointly employ a supervisor of instruction, who shall devote such time to the supervision of instruction in the several districts as may be agreed upon by the several boards of trustees.

72423. The governing board of each community college district shall provide for the payment of the traveling expenses of any representatives of the board when performing services directed by the board.

72424. The governing board of any community college district having an average daily attendance of 10,000 or more may appoint a director of school building planning, who shall be a person qualified by training, experience and demonstrated ability to manage the building, construction and contracting business of the district. The director shall be responsible for the coordination of the building program of the district and shall advise the superintendent and other employees of the district with respect to the negotiation and performance of building construction contracts let by the governing board of the district.

72425. In any community college district in which the average daily attendance exceeds 60,000, and which is not located in a city and county, or in any community college district in which the average daily attendance exceeded 60,000 in the 1963-64 school year and was less than 60,000 in the 1972-73 school year or any subsequent school year, and which is not located in a city and county, the governing board may prescribe, as compensation for the services of each member of the board, the sum of seventy-five dollars (\$75) for each meeting of the board actually attended, not to exceed seven hundred fifty dollars (\$750) in any month. In any community college district in which the average daily attendance for the school year 1972-1973 was less than 60,000, except a district which also comes within the

terms of the preceding sentence, but more than 25,000, each member of the governing board of the district may receive as compensation for his services not to exceed forty dollars (\$40) for each meeting of the board actually attended, not to exceed three hundred dollars (\$300) in any month. In any community college district in which the average daily attendance for the school year 1972-1973 was 25,000 or less but more than 10,000, each member of the governing board of the district may receive as compensation for his services not to exceed thirty dollars (\$30) for each meeting of the board actually attended, but not to exceed two hundred dollars (\$200) in any month. In any community college district in which the average daily attendance for the school year 1972-1973 was 10,000 or less but more than 1,000, each member of the governing board of the district may receive as compensation for his services not to exceed twenty dollars (\$20) for each meeting of the board actually attended, not to exceed one hundred twenty dollars (\$120) in any month. In any community college district in which the average daily attendance for the 1972-1973 school year was 1,000 or less but more than 150, each member of the governing board of the district may receive as compensation for his services not to exceed ten dollars (\$10) for each meeting of the board actually attended, but not to exceed sixty dollars (\$60) in any month.

(b) The compensation of members of the governing board of a community college district newly organized or reorganized after June 30, 1973, shall be governed by subdivision (a). For such purposes the total average daily attendance in all of the community colleges of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the school year 1972-73.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and spread upon its minutes finds that at the time of the meeting he is performing services outside the meeting for the community college district. The compensation shall be a charge against the funds of the district.

## CHAPTER 5. LIABILITIES, INSURANCE, AND CORRUPT PRACTICES

### Article 1. Liabilities

72500. The governing board of any community college district is liable as such in the name of the district for all debts and contracts, including the salary due any instructor not made in excess of the moneys accruing to the district and usable for the purposes of the debts and contracts during the school year for which the debts and contracts are made. The district shall not be liable for debts and contracts made in violation of this section.

For the purposes of this section, moneys transferred to the funds of a newly organized district pursuant to Section 85223 are deemed

district moneys accruing to the district and usable for the purposes of contracts made for the school year preceding the date the district became effective for all purposes.

72501. The governing board of any community college district shall pay any judgment for debts, liabilities, or damages out of the funds to the credit of the district, subject to the limitation on the use of the funds provided in the California Constitution. If any judgment is not paid during the tax year in which it was recovered:

(a) And if, in the opinion of the board, the amount is not too great to be paid out of taxes for the ensuing year, the board shall include in its budget for the ensuing tax year a provision to pay the judgment, and shall pay it immediately upon the obtaining of sufficient funds for that purpose.

(b) And if, in the opinion of the board, the amount of the judgment is so great that undue hardship will arise if the entire amount is paid out of taxes for the next ensuing tax year, the board shall provide for the payment of the judgment in not exceeding 10 annual installments with interest thereon up to the date of each payment, and shall include provision for the payment in each budget for not exceeding 10 consecutive tax years next ensuing. Each payment shall be of an equal portion of the principal of the judgment, except that the board, in its discretion, may provide for the prepayment of any one or more installments or any part of an installment.

72502. All claims for money or damages against a district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

72503. Upon request of the governing board of the community college district, the district attorney of the county in which a district is located shall, without fee or other charge, defend:

(a) The district in any suit brought against the district pursuant to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(b) Any member of the governing board of the community college district, or any employee or servant of the district, as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of the Government Code.

72504. Notwithstanding any provisions of law to the contrary, as an alternative to contracting with private counsel or for the use of an administrative adviser, the governing board of any community college district, may elect to supplement the legal services that customarily are being rendered by the office of county counsel or district attorney by contracting with either the office of county counsel or office of district attorney, or both, for additional services. Such additional services shall be performed at a fee and in a manner agreed upon by the governing board and the office of county counsel or office of district attorney, or both.

72505. The governing board of any community college district, may contract for the services of a hearing officer pursuant to the provisions of Chapter 14 (commencing with Section 27720) of Part 3, Division 2 of Title 3 of the Government Code and, for purposes of that chapter, the governing board is deemed to be a local body and the district a local public entity.

72506. (a) The governing board of any community college district shall insure against:

(1) The liability, other than a liability which may be insured against under the provisions of Division 4 (commencing with Section 3200) of the Labor Code, of the district for damages for death, injury to person, or damage or loss of property; and

(2) The personal liability of the members of the board and of the officers and employees of the district for damages for death, injury to a person, or damage or loss of property caused by the negligent act or omission of the member, officer or employee when acting within the scope of his office or employment.

(b) The insurance may be written in any insurance company authorized to transact the business of insurance in the state, or in a nonadmitted insurer to the extent and subject to the conditions prescribed by Section 1763 of the Insurance Code.

(c) Nothing in this section is intended to limit or restrict the authority of the district to insure under Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.

72507. Nothing in this code shall be construed as prohibiting the governing board of any community college district from insuring, pursuant to Section 72506, against the liability of the district for damages for death, injury to person, or damage or loss of property arising out of any aviation education conducted pursuant to Article 5 (commencing with Section 78270) of Chapter 2 of Part 48 of this division or against the personal liability of the members of the board and of the officers and employees of the district for damages for death, injury to a person, or damage or loss of property caused by the negligent act or omission of the member, officer, or employee when acting within the scope of his office or employment in conducting any aviation education pursuant to Article 5 (commencing with Section 78270) of Chapter 2 of Part 48 of this division.

72508. The governing board of any community college district maintaining a course of automobile driver training shall advise the parents or guardians or persons having custody of minors of the district participating in automobile driver training courses under the jurisdiction of, or sponsored or controlled by, the district, who have signed the statement required by Section 12650 of the Vehicle Code or an application for a driver's license under Section 17701 of the Vehicle Code, of each of the following:

(a) Any civil liability of the minor which will be imposed on the parent, guardian, or other person by reason of such minor operating a motor vehicle.

(b) The insurance coverage carried by the community college

district, with respect to the use of motor vehicles in connection with such courses, specifically including any limitations of such coverage which limit such coverage to an amount less than the liability imposed on the parent, guardian, or other person, or which limit the nature of such coverage to exclude any activity or situation included within the liability so imposed.

72509. Notwithstanding Section 72506 of this article, the governing board of any community college district may provide for persons authorized by the governing board to perform volunteer services for the district insurance coverage which is the same as or comparable to that provided for employees of the district including coverage under the provisions of Division 4 (commencing with Section 3200) of the Labor Code.

72510. The governing body of a community college district may provide by rule or regulation for the reimbursement of any person or persons for the loss, destruction, or damage by arson, burglary or vandalism of personal property used in the district. Reimbursement shall be made only when approval for the use of the personal property in the district was given before the property was brought to school and when the value of the property was agreed upon by the person or persons bringing the property and the district administrator or person appointed by him for this purpose at the time the approval for its use was given. The governing body may establish a maximum value of reimbursement which will be paid.

72511. The board of governors of a community college district with 50,000 or more average daily attendance may provide protection from its own funds for the purpose of covering the liability of the district, its officers, agents, and employees, in lieu of carrying insurance in insurance companies as provided in Section 72506. Nothing contained herein shall be construed as prohibiting the board of the district from providing protection against such liability partly by means of its own funds and partly by means of insurance written by insurance companies as provided in Section 72506.

## Article 2. Corrupt Practices

72530. The offering of any valuable thing to any member of the governing board of any community college district, with the intent to influence his action in regard to the granting of any instructor's certificate, the appointment of any instructor, superintendent, or other officer or employee, the adoption of any textbook, or the making of any contract to which the board of which he is a member is a party, or the acceptance by any member of the governing board of any valuable thing, with corrupt intent, is a misdemeanor.

72531. Any contract or appointment obtained from the governing board of any community college district by corrupt means is void.

72532. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who is

charged with any offense described in Sections 72530 or 72531.

72533. No member of the governing board of any community college district shall be interested in any contract made by the board of which he is a member.

72534. Except as provided in Section 72535, no contract or other transaction entered into by the governing board of any community college district is either void or voidable under the provisions of Section 72533, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

(a) The fact of such interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such interested member or members, and

(b) The contract or transaction is just and reasonable as to the district at the time it is authorized or approved.

72535. The provisions of Section 72534 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

(a) The contract or transaction is between the community college district and a member of the governing board of that district.

(b) The contract or transaction is between the district and a partnership or unincorporated association of which any member of the governing board of that district is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest.

(c) The contract or transaction is between the district and a corporation in which any member of the governing board of that district is the owner or holder, directly or indirectly, of five percent (5%) or more of the outstanding common stock.

(d) A board member is interested in a contract or transaction within the meaning of Section 72533, and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

72536. No contract entered into by the governing board of a community college district is either void or voidable under the provisions of Sections 72533 and 72535, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under such provisions, if the contract is a contract of employment of any spouse or child of any member of the governing board, and such employment is as a limited-term employee under Section 88105 or a short-term employee under Section 88003 whichever is applicable, and is made on a competitive basis between persons who are eligible, under written qualifications, and competent to fulfill the duties and responsibilities of such employment.

72537. The question of the validity or invalidity of a contract or other transaction entered into by the governing board of a community college district where a member of the governing board of that district is interested in such contract or transaction, as well as

the question of disqualification or misconduct in office of such interested member, shall be exclusively governed by the provisions of the Education Code which are hereby declared to and shall supersede (1) any and all provisions of law contained in any code or law of this state, except those which specifically refer to members of the governing boards of community college districts and which might otherwise be applicable and (2) any and all provisions of law contained in any charter or ordinance of a city, county or city and county, which might otherwise be applicable.

72538. A board member shall not be deemed to be interested in a contract within the meaning of Section 72533 solely by reason of his membership in a nonprofit corporation formed under the Agricultural Code, or in a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products providing that the fact of such membership is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract in good faith by a vote sufficient for the purpose without counting the vote of such member.

72539. Any contract made in violation of Section 72533 is void.

## CHAPTER 6. MISCELLANEOUS PROVISIONS

### Article 1. Records and Reports

72600. The governing board of every community college district shall:

(a) Certify or attest to actions taken by the governing board whenever such certification or attestation is required for any purpose.

(b) Keep an accurate account of the receipts and expenditures of district moneys.

(c) Make an annual report, on or before the first day of July, to the county superintendent of schools in the manner and form and on the blanks prescribed by the board of governors.

(d) Make or maintain such other records or reports as are required by law.

72601. Whenever in any school year the community college register of any instructor, or other records of any district are destroyed by conflagration or public calamity, preventing the instructor and school officers from making their annual reports in the usual manner and with accuracy, affidavits of the instructor, the president, or other officers of the district, certifying as to the contents of the destroyed register or other records, shall be accepted by all school authorities for all purposes appertaining to the district, except that of average daily attendance.

72602. Whenever the average daily attendance of a community college district has been materially affected in any school year by conflagration, public calamity, or epidemic of unusual duration and

prevalence, the regular annual reports of the instructor, the president, or officers of the district, shall be accepted by all school officers for all matters appertaining to the district, except that of average daily attendance.

72603. Whenever the destruction of records of a district is not otherwise authorized or provided for by law, the governing board of the district may destroy such records of the district in accordance with regulations of the board of governors which they are authorized to adopt.

72604. The governing board of a community college district may make microfilm or photographic copies of any records of the district. The original of any records of which a photographic or microfilm copy has been made may be destroyed when provision is made for permanently maintaining such photographic or microfilm copies in the files of the district, except that no original record that is basic to any required audit shall be destroyed prior to the second July 1st succeeding the completion of the audit.

72605. In any joint community college district, all returns, reports, certificates, estimates, petitions, and other papers of any kind relating to community colleges and community college districts, required by law to be filed with or presented to the board of supervisors or county superintendent of schools, shall be filed with or presented to the supervisors or superintendent of schools of each county in which any portion of the district is situated.

## Article 2. Counseling Services

72620. The governing board of a community college district may provide in each school within the district an organized and functioning counseling program. Counseling shall include, but not be limited to, the following:

(a) Educational counseling, in which the student is assisted in planning and implementing his immediate and long-range educational program.

(b) Career counseling, in which the student is assisted in assessing his aptitudes, abilities, and interests in order to make realistic career decisions.

(c) Personal counseling, in which the student is helped to develop his ability to function with social and personal responsibility.

(d) Evaluating and interpreting test data.

(e) Counseling and consultation with parents and staff members on learning problems and guidance programs for students.

For purposes of this section, a person performing counseling services to students shall be a school counselor possessing a valid credential with a specialization in student personnel services and assigned specific times to directly counsel students regarding their educational, vocational, and social adjustment.

A governing board of a community college district which offers such counseling services, may contract with the governing boards of

any other districts, or private schools, or other public and private agencies or organizations, to render such counseling services. In so contracting, the governing board of a community college district shall not contract at less than cost to a private school, or private agency or organization.

Nothing in this section shall be construed as prohibiting persons participating in an organized advisory program approved by the governing board of a community college district, and supervised by a district counselor, from advising students pursuant to the organized advisory program.

Notwithstanding any provisions of this section to the contrary, any person who is performing such counseling services pursuant to law authorizing the performance thereof in effect before the effective date of this section shall be authorized to continue to perform such services on and after March 4, 1972, without compliance with the additional requirements imposed by this section.

### Article 3. Promoting Education

72630. The governing board of a community college district may:

(a) Conduct studies through research and investigation as are determined by it to be required in connection with the present and future management, conditions, needs, and financial support of the district; or join with other community college district governing boards in the conduct of such studies.

(b) Install and maintain exhibits of educational programs and activities of the district at any county fair held in the county in which the district is located in whole or in part, or at any agricultural district fair held in the county in which the district is located in whole or in part.

(c) Inform and make known to the citizens of the district, the educational programs and activities of the colleges therein.

(d) Subscribe for membership for a college under its jurisdiction in any society, association, or organization which has for its purpose the promotion and advancement of public or private education.

(e) Subscribe for membership in, or otherwise become a member of, any national, state or local organization of governing boards of community college districts or members thereof which has for its purposes the promotion and advancement of public education through research and investigation, and the cooperation with persons and associations whose interests and purposes are the betterment of the educational opportunities of the students of the state.

(f) Select a member or members of the board to attend meetings of any society, association, or organization for which the district has subscribed for membership, or any convention to which it may pay the expenses of any employee.

72631. The actual expenses of the member or members selected to attend a meeting or convention pursuant to subdivision (f) of

Section 72630 shall be allowed and paid out of the funds of the district, and the governing board of the district may authorize an advance of funds to cover such expenses, with the advance to be repaid or adjusted upon the filing of a regular claim for the actual expenses incurred. Except as otherwise provided in this section, the governing board of any district may pay out of the same funds the actual and necessary expenses incurred in connection with activities pursuant to subdivisions (a), (b), and (d) of Section 72630.

If any studies are undertaken jointly by two or more districts pursuant to subdivision (a) of Section 72630, the costs thereof shall be apportioned among the participating districts as determined by the agreement of the governing boards. Expenses, including transportation expenses, incurred in connection with installing, maintaining and returning exhibits provided pursuant to subdivision (b) of Section 72630 may be paid only out of funds of the district not required to be used for other purposes.

72632. The governing board of any community college district or any member of the governing board of a district may prepare or disseminate information or may make public or private appearances or statements for the purpose of urging the passage or defeat of any school measure of the district.

As used in the section, "school measure" includes any proposition for the issuance of bonds of the district, an increase in the maximum tax rate of the district, the acceptance, expenditure, and repayment of state funds by the district to enable the district to construct buildings and other facilities, or the candidacy of any person for election to the governing board of the district.

No community college district funds, services, supplies, or equipment shall be used for the purpose of urging the passage or defeat of any school measure of the district, including, but not limited to, the candidacy of any person for election to the governing board of the district.

Nothing in this code shall be construed as prohibiting any administrative officer of a district from appearing at any time before a citizens group, which requests his appearance, to discuss the reasons why the governing board of the district called an election to submit to the voters of the district a proposition for the issuance of bonds or for an increase in the maximum tax rate of the district and to answer questions put to him by any taxpayer concerning the cost of such proposals.

#### Article 4. Excursions to a Foreign Country

72640. The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country

may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for such pupils.

(b) Engage such instructors, supervisors, and other personnel as desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for such field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where such excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, such liability insurance shall be secured from a carrier licensed to transact insurance business in such foreign country.

(d) Provide supervision of students involved in field trips or excursions by certificated employees of the district.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance which would have accrued had the students not been engaged in the field trip or excursion, but shall not exceed 10 schooldays.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

No transportation allowances shall be made by the board of governors for expenses incurred with respect to field trips or excursions which have an out-of-state destination. A community college district which transports students, instructors or other employees of the district in schoolbuses within the state and to destinations within the state, pursuant to the provisions of this section, shall report to the board of governors on forms prescribed by them the total mileage of schoolbuses used in connection with such educational excursions.

72641. The governing board of any community college district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for students of the district injured while participating in such excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership may be paid, from the funds of the district, or by the insured student, his parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only such companies or corporations as are authorized to do business in this state.

72642. No air transportation may be provided under this article unless the air transportation is provided by chartered aircraft operated exclusively by an air carrier or foreign air carrier as defined in subsections (3) and (19) of Section 101 of Title 1 of the "Federal Aviation Act of 1958" (Public Law 85-726; 72 Stat. 731) engaged in air transportation as defined in subdivision (10) of the same section while there is in force a certificate or permit issued by the Civil Aeronautics Board of the United States, or its successor, authorizing such air carrier to engage in such transportation.

#### Article 5. Scholarship and Loan Funds

72650. The governing board of a community college district may establish and maintain a scholarship and loan fund, to be administered by a committee composed of the members of the governing board of the district, the district superintendent, and such other community, faculty, administrative, and student representatives as the governing board shall determine.

The governing board shall, by rules and regulations, determine the terms of office and the method of selection of such community, faculty, administrative, and student representatives.

72651. The superintendent of the community college district shall be the chairman of the committee and shall be the chief executive officer of the fund.

72652. The committee shall meet at least once each fiscal year and at such other times as it may be called into session by the chairman.

72653. The committee may accept on behalf of, and in the name of, the fund, such gifts, donations, bequests, and devises as are made for the purposes of the fund. Such gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the committee may prescribe.

Any donor to the fund may impose conditions to his gift, donation, bequest, or devise. The committee shall review all such conditions and make a recommendation to the governing board as to the compatibility of such conditions with the intent and purpose of the fund. The governing board shall have the authority to prohibit the committee from accepting any proposed donation to the fund if conditions with respect to the gift, donation, bequest, or devise are incompatible with the intent and purpose of the fund, as determined by the governing board.

Except as provided in this section, in no event shall the approval of any state agency be a prerequisite to acceptance by the committee of any gift, donation, bequest, or devise.

72654. Money in the fund shall be deposited in a bank or other institution whose accounts are insured by the Federal Deposit Insurance Corporation, and any money so deposited shall be in an account or accounts fully covered by such insurance.

The committee shall establish and maintain procedures to identify clearly all money in the fund and its separate and distinct impressed trusts, if any, and from whom and to whom such money was received and disbursed.

72655. All money in the fund shall be available for making interest-free loans for educational advancement, for scholarship, or for grants-in-aid to eligible persons. An eligible person for such loans shall be any of the following:

(a) A bona fide organization of a college under the jurisdiction of the governing board of the district.

(b) An enrollee at a college under the jurisdiction of the governing board of the district.

(c) A graduate of a college under the jurisdiction of the governing board of the district.

72656. An applicant for a loan from the fund shall make application therefor in accordance with reasonable rules and regulations established by the governing board of the district, provided that such rules and regulations shall not include any conditions limiting eligibility on account of race, creed, or country of origin.

72657. All expenses in the administration of the fund including, but not limited to, operating costs, audits, promotion of the fund, and physical housing for the committee, shall be a proper charge against the funds of the district and the annual budget of the districts shall include funds for such expenses.

72658. The governing board of the community college district shall arrange for an annual audit of the fund in the same manner as prescribed in Section 84040.

72659. The chief executive officer of the fund shall make periodic reports, but not less frequently than annually, to the governing board of the district with respect to the status and activity of the fund.

#### Article 6. Auxiliary Organizations

72670. The governing board of a community college district may establish auxiliary organizations for the purpose of providing supportive services and specialized programs for the general benefit of students, as determined by the governing board, and which are not provided by the general fund of the district. Such services and programs shall be consistent with the purposes of the college and shall conform with the policies and regulations of the governing board. Commercial services operated by an auxiliary organization shall be self-supporting. Nothing in this article shall be construed as granting to any auxiliary organization any power which exceeds any power of a governing board of a community college district.

72671. Auxiliary organizations formed pursuant to this article may be incorporated under the laws of the State of California. Each auxiliary organization so organized shall have a board of directors whose size and membership shall be established by the governing board of the district. Each board of directors shall hold at least one business meeting in each fiscal year.

No member of the board of directors shall be financially interested in any contract or other transaction entered into by the board of directors.

72672. The governing board of the community college district may establish a fund for each auxiliary organization into which proceeds derived from the operation of the organization or from fees, sales, grants, contracts, bequests, trusts, or gifts shall be deposited. Moneys from such sources shall be deposited or invested in one or more of the following ways:

(a) Deposits in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of United States securities pursuant to subdivision (a) of Section 16430 of the Government Code.

72673. Any employee, not a student or substitute employee, employed by an auxiliary organization shall be a member of the classified service of the district.

76474. The board of directors of each auxiliary organization shall have prepared annually a budget which shall be submitted to the

governing board of the district for approval.

72675. Funds established under this article shall be audited pursuant to Section 84040.

## PART 46. DISTRICT FORMATION, ANNEXATION, AND TRANSFER

### CHAPTER 1. DISTRICT ORGANIZATION AND REORGANIZATION

#### Article 1. Board of Governors' Approval of Proposals

(Heading of Article 1 amended by Stats 1976, Ch. 1011)

[ORIGINAL SECTION]

Article 1. Board of Governors' Approval on Proposals

74000. All community college district organization or reorganization proposals, by whatever procedure, shall be submitted to the Board of Governors of the California Community Colleges for approval.

#### Article 2. Policy and Procedures

74010. The Legislature hereby declares as its policy that all of the territory of the state shall be included in community college districts, except that of counties the residents of which account for fewer than 250 units of average daily attendance in grades 13 and 14 in community colleges in the state in the preceding fiscal year. However, the territory of such counties may be included in community college districts pursuant to procedures prescribed by law.

For purposes of this section and Section 74011, references to "counties" in the case of Modoc County and Sierra County shall be deemed to refer to all of the community college district territory under the jurisdiction of the county superintendents of schools of those counties, and not to the territory precisely included within the boundaries of the counties, where such community college district territory extends into Siskiyou or Plumas County. The remaining provisions of this article shall be construed and applied in accordance with such meaning, where applicable.

74011. On or before September 15, 1973, the county committee on school district organization of each county in which the residents account for 250 or more units of average daily attendance in grades 13 and 14 in community colleges in the state in the 1972-73 fiscal year shall submit to the Board of Governors of the California Community Colleges approvable plans and recommendations for the inclusion of all of the territory of the county in one or more community college districts or for the annexation to existing community college districts of territory not a part of any community college district. The county committee on school district organization of any other county may

submit such plans and recommendations at any time. A single plan for annexation may contain alternative proposals respecting the community college district or districts to which annexation is proposed.

When, in any fiscal year after the 1972-73 fiscal year, the residents of a county for the first time account for 250 or more units of average daily attendance in grades 13 and 14 in community colleges in the state, the county committee on school district organization shall, in the next succeeding fiscal year, submit such plans and recommendations to the board of governors.

Notwithstanding the provision of Section 74300, if the plan prepared by the county committee proposes the annexation of territory to an existing community college district which maintains not more than two community colleges, an agreement to the annexation by the community college board shall not be required.

Plans and recommendations which are not approved by the board of governors shall be returned to the county committee on school district organization for revision and resubmission to the office of the Chancellor of the California Community Colleges.

74012. If the board of governors does not approve all or any part of a plan submitted by a county committee, the board shall so notify the committee, setting forth the reasons for not approving and the nature of additional data or study which it deems necessary. The county committee shall thereupon reconsider the matter and resubmit the plan within six months from the date of notice from the board of governors.

74013. The board of governors may approve all or any portion of a plan submitted by a county committee. When the board of governors approves all or part of a plan, it shall notify the county superintendent of schools and the county board of supervisors of the county or counties involved.

74014. Elections to carry out the proposals of a plan approved by the board of governors shall be called and conducted by the county superintendent of schools of the county in which all or the greater portion of the area is situated at the time the plan is recommended by the county committee and shall be held pursuant to the provisions of Section 4405, but in any event within one year after date of notification of original approval or by September 15, 1975, whichever is earlier, for plans required to be submitted on or before September 15, 1973. For plans required to be submitted after September 15, 1973, the election shall be held within one year after the date of notification of original approval. Alternative annexation proposals contained in a single approved plan shall be submitted to the electors as separate alternative propositions. When alternative annexation propositions are submitted to the electors, that proposition receiving the approval of the majority of qualified electors voting shall be adopted. In the event that more than one annexation proposition receives the approval of the majority of the qualified electors voting, that proposition which receives the greatest number of favorable

votes in excess of the majority shall be adopted.

If a county committee on school district organization has submitted a plan and recommendation to the board of governors prior to September 23, 1974, and an election on such plan and recommendation has not been held prior to such date, the county committee or school district organization may subsequently determine that the intent of Section 74010 may equally be satisfied by annexation of the territory to either of two community college districts. Following a public hearing it may amend its plan and recommendation by a majority of all those entitled to vote and submit its amended proposal to the board of governors. The amended proposal shall be submitted within 60 days after such effective date. The board of governors may approve or disapprove any such amended proposal.

74015. Notwithstanding the provision of Section 74011, the Board of Governors of the California Community Colleges may grant an extension of time for submitting plans and recommendations upon request of the county committee on school district organization and the executive officer of the board of governors. Such time extension shall expire on or before March 15, 1974.

The Board of Governors of the California Community Colleges may grant a further extension of time for the submitting of plans and recommendations where such submission is its responsibility. Such extension shall not extend beyond September 15, 1974.

74016. If the county committee on school district organization fails to submit plans and recommendations, as provided in Section 74011, except when an extension of time has been given under the provisions of Section 74015 and this section, the office of the Chancellor of the California Community Colleges, shall prepare a plan or plans and submit them to the Board of Governors of the California Community Colleges on or before September 15 in the fiscal year following the fiscal year in which such plans and recommendations were required to be submitted for its approval. If an extension of time has been given under the provisions of Section 74015 and this section, and the county committee fails to submit a plan, the Chancellor of the California Community Colleges shall prepare a plan or plans and submit them to the Board of Governors of the California Community Colleges within one year from the date of expiration of such extension for its approval.

When submitting of plans and recommendations for a territory has become the responsibility of the Chancellor of the California Community Colleges, and such territory may be affected by a study of the feasibility of an interstate or community college district, the board of governors may grant an extension of time for the preparation of plans and recommendations. Such extension shall not extend beyond the last date upon which the county committee on school district organization was required to have submitted its plans and recommendations.

Elections shall be conducted prior to the date specified in Section

74014 on all organization plans pursuant to Section 74014. If at the end of the above procedures, any territory of the state required to be included in a community college district is not included in a community college district, the board of governors shall adopt a resolution placing such territory in one or more community college districts, and shall notify the proper boards of supervisors to make the necessary orders and shall inform all other agencies concerned of its actions. Such resolution shall be adopted by the board of governors on or before September 15 in the second fiscal year following the fiscal year in which such plans and recommendations were required to have been submitted, and the required notices shall be sent by registered mail to be received by all agencies not later than December 1 in the year of the adoption of the resolution.

74017. A county committee on school district organization may formulate plans and recommendations for the formation of a community college district as a preliminary step to the inclusion of such district in a larger community college district for which plans and recommendations have been or are being formulated. The plans and recommendations for the proposed district to be formed as a preliminary step and the plans and recommendations for the proposed larger district shall be submitted to and considered by the board of governors at the same time, as though the whole were a single proposal.

Plans and recommendations formulated pursuant to this section may include a requirement that bonds of the preliminary community college district be authorized in an amount specified by the county committee on school district organization for the purpose of paying an equitable share of the cost of the property to be owned or held by the larger community college district in which the preliminary community college district is to be included. When such a requirement is included in the plans and recommendations, the county superintendent shall call and conduct a bond election to be held concurrently with the election on formation of the preliminary community college district.

Sections 74101 and 74102 shall not apply to the formation of a community college district as a preliminary step to the inclusion of such district in a larger community college district.

If plans and recommendations submitted pursuant to this section are approved by the board of governors, the county superintendent of schools shall call elections on the question of approval of each of the proposals on dates fixed by the county committee on school district organization, but with the dates of the elections on the formation of the preliminary community college district and the formation of the larger community college district to be no less than 60 days apart. The election on the formation of the larger community college district shall be held only if the election on the formation of the preliminary community college district and, if required, the bond election are successful.

If an election to form a community college district as a preliminary

step to the inclusion of such a district in a larger community college district is successful, the district shall not become effective for any purpose until the formation of the larger community college district has been approved at an election and the election results have been certified as required by law.

74018. Notwithstanding any provision of law to the contrary, the governing board of a community college district formed as a preliminary step to the inclusion of such district in a larger community college district pursuant to Section 74017, may request the county superintendent of schools to transfer to the larger community college district any funds derived from the issuance and sale of bonds authorized by the district for transfer to the larger community college district. The county superintendent of schools shall order the transfer to the larger community college district as requested. Any funds so transferred may, after inclusion in the larger community college district of the community college district organized as a preliminary step to inclusion, be expended for purposes authorized by law, throughout the area of such larger community college district.

74019. Notwithstanding Section 4066, specific provision is made that a community college district formed pursuant to Section 74017 as a preliminary step to inclusion in a larger community college district also formed pursuant to Section 74017 shall continue to exist as a district for the purpose of issuing and selling bonds in the amount specified by the county committee on school district organization, the proceeds of which are to be transferred to the larger community college district on or after the date the formation of such larger community college district becomes effective for all purposes.

74020. The procedures contained in Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1 shall be used in the development of plans and recommendations for the inclusion of territory in community college districts. The terms of the plan for the inclusion of territory may be based on any provision of Part 3 (commencing with Section 4000) of Division 1 of Title 1.

74021. The plans and recommendations for the formation of a community college district prepared by a county committee on school district organization pursuant to this article may propose the formation of a community college district or the annexation of territory to a community college district to include either all or a part of a union or joint union high school district or unified district.

The portion of a union or joint union high school district or unified district excluded from a proposed community college district may be excluded only for the purpose of becoming a part of another community college district. If the excluded portion fails to become a part of a community college district within a period of five years after its exclusion it shall become a part of the community college district of which the union or joint union high school district or unified district is a component. Any portion of a union or joint union high school district or unified district excluded from a newly formed

community college district under provisions of this section may be included in a proposal to form a new community college district or annexed to a community college district under provisions of Chapter 2 (commencing with Section 74100) of this part or Chapter 2 (commencing with Section 4200) of Part 3 of Division 1 of Title 1.

### Article 3. Limitations

74030. Whenever any community college district boundary change, whether proposed under this code or under any other provision of law, involves the withdrawal from a district maintaining three or more community colleges of territory containing community college land, buildings, or facilities owned by that district, such proposal shall not be effected without the prior express approval of the governing board of that district.

74031. During the first five years following the formation of a community college district, no territory shall be removed from the district under any procedure unless the consent of the governing board of the district has been given prior to commencement of the proceedings for removal or unless the removal of such territory is provided for in the plans and recommendations of the county committee.

74032. On and after February 1, 1963, no district, except a community college district, shall be formed to maintain a community college. No district, except a community college district, shall maintain a community college on and after July 1, 1970.

A separate community college district may be formed by a unified school district pursuant to the provisions of Article 3 (commencing with Section 74140) of Chapter 2 of this part.

## CHAPTER 2. NEW DISTRICTS

### Article 1. Standards for Formation of Community College Districts

74100. The board of governors shall establish minimum standards for the formation of community college districts.

74101. Except as provided in Section 74104, no community college district shall be formed, and the board of governors shall not approve a petition to form a community college district if the estimated potential average daily attendance of the district is less than 1,000 units of average daily attendance.

74102. Except as provided in Section 74104, no community college district shall be formed and the board of governors shall not approve a petition to form a community college district if the assessed valuation of taxable property in the proposed district is less than one hundred fifty thousand dollars (\$150,000) for each unit of estimated potential average daily attendance. For the purposes of this section, the assessed valuation of the territory in the district shall

be that shown by the last equalized assessment roll of the county or counties in which the district will be located as of the time the petition to form the district is presented to the board of governors.

74103. For the purposes of Sections 74101 and 74102, the estimated potential average daily attendance means the estimate made pursuant to this section.

For each petition for the formation of a community college district, the board of governors shall estimate the attendance of resident pupils who will be in grades 13 and 14 of the proposed district during the second school year after the date the district is in existence for all purposes.

As used in this section, "resident students" means students who reside or will reside in the proposed district.

74104. If the Board of Governors determines that the proposed district will serve an area which is isolated from other existing community colleges or if existing community colleges are inaccessible to residents of the area to be served, the Board of Governors may approve the formation of a new district community college with a smaller estimated potential average daily attendance or assessed valuation for each unit of estimated potential average daily attendance than that required by Sections 74101 and 74102.

74105. This article does not apply to the formation of a new community college district which consists wholly or partially of territory of a unified district or union high school district maintaining a community college on September 15, 1961.

## Article 2. Formation by Petition of Boards of Trustees

74110. Community college districts shall be formed pursuant to this article.

74111. "High school district," as used in this chapter, means high school district or unified school district.

74112. A community college district may include all or part of the territory of one high school or unified district or two or more high school or unified districts and may, with the approval of the Board of Governors of the California Community Colleges, include noncontiguous territory; provided, however, that the terms of this section shall not be applicable to any districting proposals initiated prior to March 1, 1967. A districting proposal shall be deemed to have been initiated when the board of trustees of a community college district and the board of trustees of the district seeking annexation have adopted resolutions ratifying the terms of the annexation agreement.

74113. A community college district may be formed to include all or a part of the territory of an existing community college district and one or more high school and unified districts.

74114. The governing board of any high school district or the governing boards of two or more high school districts, or the governing board of a community college district and the governing

board of one or more high school districts, may present to the board of governors a petition asking permission to call an election for the formation of a community college district to include all, or a portion of, the territory in the high school district or districts, as the case may be. The petition may include a proposal to form trustee areas in the proposed community college district, and shall state whether five or seven members shall constitute the governing board of the district. The board of governors shall make or cause to be made a survey of the proposed community college district and of other high school districts which, in whole or in part, may appropriately be included in the proposed district.

74115. The cost of the survey shall be borne by the high school district, the governing board of which signed the petition, or, if there are two or more high school districts petitioning the cost shall be borne by the high school districts in proportion to their assessed valuation. The cost of the survey to a high school district is a proper charge against the maintenance fund of the district.

74116. If the board of governors approves the petition, it shall within 30 days after approval notify the superintendent of schools of the county in which the greatest area of the proposed community college district lies.

74117. Within 30 days after receiving the notice the superintendent of schools of the county within which the greatest area of the proposed community college district lies, shall call an election to be held in every elementary district and unified district or portion thereof included in the proposed community college district. He shall establish one or more precincts in each elementary or unified district, or portion thereof, and appoint three qualified electors in each precinct to conduct the election.

74118. The election shall be called by posting notices in three public places in each district, one of which shall be a public schoolhouse of the district, at least two weeks before the election, and by publishing the notice at least once a week for two successive weeks in a newspaper having a general circulation in the proposed community college district. The first publication shall be not less than two weeks before the election. The notice shall specify the polling places, and, in cities, the precinct lines.

74119. The expenses of printing notices and ballots and other necessary expenses incurred in the calling, holding, and conducting of the election shall be paid by the board of supervisors out of the county general fund.

74120. The election shall be held separately and simultaneously at a public schoolhouse in each elementary school district or in each precinct, and shall be conducted in the manner provided for conducting elections of governing boards of elementary school districts.

74121. The ballots used in any election held for the purpose of forming a new community college district at the election in each district shall contain the words "Community college district—Yes"

and "Community college district—No." The ballots used in any election held pursuant to Sections 74145 and 74150 for the purpose of separating the community college from an existing unified or high school district and thus forming a new community college district with boundaries identical to those of the existing unified or high school district shall contain the words "In favor of separation of the community college from the unified district (or high school district) to form a separate community college district—Yes" and "In favor of separation of the community college from the unified district (or high school district) to form a separate community college district—No." Each elector voting at the election shall make a cross with a pencil, pen, or a rubber stamp after the answer he desires to give.

74122. The election officers in each district or precinct shall canvass the vote of the election as soon as the polls are closed. They shall report the result to the superintendent of schools who called the election within five days after the election.

74123. Within 10 days after receiving the returns of the election, the superintendent of schools shall combine the votes "for" and the votes "against" the formation of the community college district and declare and record the result, with the details of the vote in each district, in a book kept by him for that purpose.

74124. If a majority of the votes cast at the elections is in favor of the formation of the community college district, he shall file with the county clerk of the county or of each of the counties in which the proposed community college district lies, a certificate showing the total number of votes cast in each district in favor of the community college district, the total number of votes in each district against the community college district, the aggregate result of the election, and the boundaries of the proposed district.

74125. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the community college district, the community college district is formed effective as provided in Sections 4062 and 4064. The county clerk shall record the certificate in full in his record of school districts.

74126. If a unified district is formed to include a high school district and the boundaries of the high school district are coterminous with a community college district and with the boundaries of the newly formed unified school district, the community college district shall remain a separate district and shall not become an integral part of the unified district.

This section shall not affect the status of any unified district formed and maintaining a community college on or before July 1, 1961, and shall not be deemed to require the formation of a community college district for the maintenance of any community college now operated by a unified district.

Notwithstanding the provisions of Section 72020 the governing board having jurisdiction over the community college district at the

time unification of the component district or districts takes place shall constitute the governing board of the community college district.

A community college district remaining a separate district pursuant to this section shall not be deemed a newly created district within the meaning of Chapter 8 (commencing with Section 54900), Part 1, Division 2, Title 5 of the Government Code.

74127. Upon the formation of a community college district the boundaries of which are coterminous with the boundaries of a single existing high school district of any type and which districts are thereafter governed by governing boards of identical personnel, if prior to the formation of such community college district the voters of the high school district at an election had voted a district tax rate in excess of the maximum rate prescribed by Article 3 (commencing with Section 85130) of Chapter 7 of Part 50 of this division such excess tax rate shall be continued at the option of the governing boards of the high school and community college districts as the maximum combined tax rate of both of said districts for combined high school and community college purposes for a period not to exceed the period of time for which such excess tax rate was so previously authorized by the voters of the high school district.

Whenever the excess tax rate is continued as the maximum combined rate of the high school and community college districts, and while both districts are governed by governing boards of identical personnel, the governing boards of such districts may, by resolution, divide said maximum combined tax rate between the two districts, provided that the resulting maximum tax rate for either of the districts shall not be established at a rate lower than the applicable rate or rates established by Article 3 (commencing with Section 85130) of Chapter 7 of Part 50 of this division.

As used in this section, "high school district" includes a unified school district, and "high school purposes" includes unified school district purposes.

74128. Every community college district formed under the provisions of this article shall be given the name selected for it by the governing board of the district and shall be designated as the "\_\_\_\_\_ (using the name of the district) Community College District." In the name by which the district is so designated the district and its governing board may sue and be sued and hold and convey property for the benefit of the district.

The governing board of a community college district may, by resolution, change the name of the district or of any of the community colleges maintained by the district; provided, however, that the name shall continue to contain the words "Community College District" or "Community College," as the case may be.

Article 3. Alternate Provisions for Formation of a Community  
College District From Territory of a Unified District  
Maintaining a Community College

74140. Where a unified school district maintains one or more community colleges, a community college district may, pursuant to this article, be formed for purposes of maintaining the one or more community colleges. The provisions of Article 1 (commencing with Section 74100) of this chapter shall not apply to proceedings to form a community college district under this article. Proceedings to form a community college district pursuant to this article shall not require approval by the Board of Governors of the California Community Colleges.

74141. The governing board of the unified district may by resolution form a separate community college district coterminous with the boundaries of the unified district. The governing board of the unified district shall serve also as the governing board of the community college district.

74142. The governing board shall establish, for community college purposes, separate fiscal procedures, including a separate budget, separate policy development, and separate agenda consideration at meetings of the governing board. Such fiscal procedures, policy development, and agenda shall be separate from those of the unified district.

74143. In any case where a community college district and a unified district have a common governing board pursuant to the provisions of this article, such governing board shall submit to the county committee on school district organization, or where there is no such county committee, the county board of education a list of real and personal property, funds and other assets, and obligations of the original unified school district. The common governing board, subject to the approval of the county committee on school district organization, or where there is no such county committee, the county board of education, shall provide for the evaluation and division between the community college district and the unified school district of the real and personal property, funds and other assets, outstanding and unissued bonds, and other obligations of the original unified school district. In addition the common governing board, subject to the approval of the county committee on school district organization, or where there is no such county committee, the county board of education, shall establish procedures for handling the separate fiscal operations.

The evaluation and division of outstanding and unissued bonds between the unified and community college district shall be accomplished without an election of the voters of either district and only the pro rata amount of bonded indebtedness divided hereunder shall be a liability of each district for purposes of determining the total authorized bonded indebtedness of each district. The common governing board, subject to the approval of the county committee on

school district organization, or where there is no such county committee, the county board of education, shall select a date for evaluation purposes under this article.

All other evaluation and division of any assets and liabilities of each district not expressly provided for in this article shall be completed by the common governing board in accordance with a plan approved by the county committee on school district organization, or where there is no such county committee, the county board of education.

74144. (a) In any case where a community college district and a unified district have a common governing board pursuant to the provisions of this article, such governing board may, on or before December 31 in any even-numbered year, on its own initiative, determine that a separate community college district governing board be established and require the members of the common board to elect as to which board they shall serve upon. The community college board so created shall be composed of the same number of members as the common board.

(b) If an individual serving on a common governing board elected pursuant to city charter, whose term on the common governing board is to expire in December of the second succeeding odd-numbered year following the even-numbered year set out in subdivision (a), elects to serve on the community college district governing board only, such act shall be deemed to have created a vacancy in his membership on the unified district governing board commencing on the first Monday after the first day in December of the first odd-numbered year following such even-numbered year. Such vacancy shall be filled as provided by the city charter.

In any odd-numbered year first succeeding the year set out pursuant to Section 74144 on the same date upon which the election for members of the common governing board is held pursuant to city charter, an election shall be held in the community college district to elect members to the community college district governing board to fill the positions of the governing board members whose terms will expire in December of such odd-numbered year, and the other governing board members, if any, whose terms will expire in December of the next succeeding odd-numbered year, and who have elected, pursuant to subdivision (a), to serve as members of the unified district board only. Of the members elected to the governing board of the community college district at that election, those receiving the lowest number of votes shall be deemed to have been elected to the positions, if any, held by members whose terms would otherwise have expired in the next succeeding odd-numbered year and who elected to serve on the unified district governing board only. The first term of office of any such newly elected member receiving such lower number of votes shall expire in December of the next succeeding odd-numbered year pursuant to the provisions of the city charter governing the election of governing board members of the unified district. Thereafter, all elections of governing board members of the community college district shall be held under

the same terms and conditions and at the same times as elections of governing board members of the unified district pursuant to city charter.

74145. If an individual whose term on the common governing board is to expire on March 31 of the second succeeding odd-numbered year following the even-numbered year set out in Section 74144, elects to serve on the community college district governing board only, such act shall be deemed to have created a vacancy in his membership on the unified district governing board commencing on the first day of April of the first odd-numbered year following such even-numbered year. Such vacancy shall be filled as provided by law.

In any odd-numbered year first succeeding the year set out pursuant to Section 74144 on the same date upon which the election for members of the common governing board is held, an election shall be held in the community college district to elect members to the community college district governing board to fill the positions of the governing board members whose terms will expire on March 31 of such odd-numbered year, and the other governing board members, if any, whose terms will expire on March 31 of the next succeeding odd-numbered year, and who have elected, pursuant to Section 74144, to serve as members of the unified district board only. Of the members elected to the governing board of the community college district at that election, those receiving the lowest number of votes shall be deemed to have been elected to the positions, if any, held by members whose terms would otherwise have expired in the next succeeding odd-numbered year and who elected to serve on the unified district governing board only. The first term of office of any such newly elected member receiving such lower number of votes shall expire on March 31 of the next succeeding odd-numbered year. The election shall be held throughout the community college district, and the members elected to the community college district governing board thereat shall be elected at large.

74148. Whenever, under the procedure prescribed in this article, a community college district is formed to assume the maintenance and operation of any community college previously maintained and operated by a unified school district, all employees of such unified district who are designated by the governing board of the unified school district as having been employed in connection with such community college during the school year preceding the school year in which the newly formed community college district becomes effective for all purposes shall choose whether to be designated employees of the new community college district or be designated employees of the unified district. All employees shall retain all personal rights, benefits, and status which they had accumulated or to which they were entitled in such unified district. Employees who are members of a local district retirement plan which has been discontinued shall retain membership and all rights in such retirement plan, and shall continue to receive the other benefits

from any reserve fund which has been established in accordance with a plan adopted by the common governing board and approved by the county committee on school district organization, or where there is no such county committee, the county board of education.

74149. When a community college district is established pursuant to this article in a unified district not subject to the provisions of Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of this division, the common board of the two districts shall adopt policies, relating to the classified service, which permit transfers, promotions, or other assignments between the two districts as if the single unified district, including the community college system, was being maintained. The common board may specify that certain rules are applicable only to the classified service of the community college or that the rule is applicable only to the classified service of the unified district, to meet the special problems of the two districts.

Should the common board be dissolved as provided for in Section 74144, the rights, benefits, and burdens of classified employees will be fixed pursuant to Section 45118 and Section 45121 even though the type of district reorganization required herein is not specifically defined in those two sections. The governing board of the community college district shall, initially, adopt the rules and regulations governing its classified service which had prevailed under the common board.

74150. Notwithstanding other provisions of law to the contrary, when a unified district was subject to the provisions of Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of this division prior to the separation as provided for in this article, the personnel commission of the unified district shall also serve as the personnel commission for the community college district. It may, however, adopt certain rules specifically applicable only to the community college district to meet special problems of that district, and it may, in any rule, provide that the rule is not applicable to the community college district.

The commission shall provide for transfers, promotional opportunities, and other matters referred to in Sections 88080 and 88081 or other applicable provisions for classified personnel of both districts as if the single unified district, which included the community college system, was being maintained.

Should the common board be dissolved as provided for in Section 74144, the provisions of Sections 45118 and 45121 shall apply. The governing board of the community college district shall cause a personnel commission to be established under law applicable to the personnel commission of the unified district. The personnel commission of the community college district shall, initially, adopt the rules and regulations of the personnel commission which had served both districts.

**Article 4. Formation of New District From Existing Districts**

74160. A new community college district may be formed pursuant to this article to include all or part of the territory of one or more existing districts of the same kind as the new district or to include territory which is a part of a district not of the same kind as the new district, or both. If a new district is to be formed only from all of the territory of two or more districts of the same kind as the new district, the district shall be formed pursuant to Article 5 (commencing with Section 74180) of this chapter and not pursuant to this article.

74161. An action to form a new community college district is initiated upon the filing with the county superintendent of schools of a petition for the new district signed by either of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be included in the new district.

(b) A majority of the members of the governing board of each district which would be components of the proposed new district.

74162. The county superintendent of schools shall, within 20 days after the petition for a new district is filed, examine the petition, and, if he finds it to be sufficient and signed as required by law, transmit the petition to the office of the secretary of the board of governors.

74163. When a petition for a new district is received in the office of the chancellor the secretary shall set the petition for hearing at a regular or special meeting of the board. At least 30 days prior to the date of the hearing he shall send by registered mail a notice containing a general statement of the purpose of the petition and the time and place of the hearing to each of the following persons or agencies:

(a) The governing board and district superintendent of each district whose boundaries would be affected.

(b) The county superintendent and county committee of each county which has jurisdiction over any of the districts whose boundaries would be affected.

(c) The persons designated in the petition as "chief petitioners."

74164. After hearing those who present themselves to speak on the petition and after hearing any findings and recommendations of the chancellor's office, the board of governors shall approve or disapprove the formation of the proposed new district. If the board approves the formation, it shall determine whether the election shall be held only in the territory or district proposed to be included in the new district or whether the election shall be held in the district or in each of the districts from which territory would be removed to form the new districts.

74165. If the board of governors approves the formation of the proposed new district the secretary of the board shall immediately notify the county superintendent of schools. Within 20 days after receiving the notification, he shall call an election, in the manner prescribed in Part 4 (commencing with Section 5000) of Division 1

of Title 1, in the territory or districts as determined by the board of governors. The ballot used in the election shall contain the words "For the formation of the new \_\_\_\_\_ Community College District with a revenue limit per unit of average daily attendance of \_\_\_\_\_, such limit to be in effect for the school year commencing \_\_\_\_\_" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

74166. The Chief Executive Officer of the Board of Governors of the California Community Colleges shall prepare a statement of official information and statistics relating to the proposed new community college district which shall include, but is not limited to, the assessed valuation, the tax rate, the rate of growth, the expected enrollment, and the support from the state which can be expected if such new district maintains an adequate school program. Such statistics shall be based upon the school year last completed before the date of the election. Upon approval by the board of governors, the statement of official information shall be distributed to each registered elector in the territory in which the election will be held.

74167. The county superintendent of schools shall compute a revenue limit for the proposed new community college district which in his judgment will be adequate to meet the needs of the district. Such revenue limit shall appear on the ballot as prescribed by Section 74165.

74168. The statement of official information and statistics prepared and distributed pursuant to Section 74166 in connection with the proposed new community college district shall contain a statement by the county superintendent of schools, of the amount by which the revenue limit, as computed by him pursuant to Section 74167, of the new district, would be required to be increased in order to produce an amount of revenue equal to the sum of the revenues of each of the districts proposed to be partially or wholly included therein produced by all of the taxes levied, pursuant to statutes authorizing taxes to be levied for particular purposes without compliance with Section 85112 in such districts during the school year prior to the fiscal year in which the election for reorganization was held.

74169. The county superintendent of schools calling the election shall cause to be prepared and distributed a statement setting forth arguments for and against the measure. The arguments shall not exceed 500 words. The argument in favor of the measure shall be prepared by an elector who signed the petition submitted pursuant to subdivision (a) of Section 74161 or by a member of the majority of a governing board pursuant to subdivision (b) of Section 74161. The argument against the measure shall be prepared by an opponent of the measure designated by the county superintendent of schools.

74170. The cost of preparation and distribution of the statement setting forth the arguments in favor of, and those opposed to, the measure and the cost of any election held hereunder shall be a charge against the general fund of the county in which the proposed

new community college district is situated. If such district is situated in more than one county, the cost shall be prorated against each county in the same proportion as the assessed valuation of the district lying in such county bears to the total assessed valuation of the district.

When the election is held in more than one county because the proposed new community college district is to be situated in more than one county, the cost of the election shall be prorated against each county in the same proportion as the assessed valuation of the territory of the proposed new district lying in such county bears to the total assessed valuation of the proposed new district.

#### Article 5. Formation of New District by Combining Districts of the Same Kind

74180. A new community college district may be formed pursuant to this article by combining two or more existing community college districts.

74181. An action to form a new district by combining existing community college districts is initiated upon the filing with the county superintendent of schools of a petition for the new district. The petition shall be signed by either of the following:

(a) At least 25 percent of the registered electors residing in each of the districts proposed to be combined.

(b) The governing boards of each of the districts.

74182. The county superintendent of schools shall, within 20 days after the petition to form a new district is filed, examine the petition and, if he finds it to be sufficient and signed as required by law, order an election in each of the petitioning districts. The ballot shall contain the words "For the formation of the new \_\_\_\_\_ district" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice. If a majority of the votes cast in each of the districts is in favor of the new district, it shall be formed.

### CHAPTER 3. ANNEXATION

#### Article 1. Annexation of High School District Upon Petition of Electors

74300. A majority of the registered electors residing in any high school district, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the community college district, a petition for the annexation of the high school district to the community college district. The petition shall be accompanied by an agreement, signed by a majority of the members of the governing board of the community college district to which annexation is desired, and by a majority of the trustees of the high school district, consenting to the annexation and setting forth the terms of the annexation. The

superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of his county with his recommendations.

74301. The board of supervisors, after receiving the petition and agreement, and the recommendation of the superintendent, may make an order annexing the high school district to the community college district upon the terms agreed on.

74302. The order of the board of supervisors annexing the high school district to a community college district shall be entered by the clerk of the board in his record of community college districts. He shall send a copy of the order to the county clerk of each county in which any part of the community college district is situated, who shall enter it in his record of community college districts.

## Article 2. Annexation of High School District Upon Petition of Community College Board

74310. Whenever a president of a community college in any community college district presents to the governing board of the community college district a statement made under oath that the average daily attendance in the community college, of students whose parents reside in a high school district not maintaining a community college, was an average of three or more for the two school years next preceding, setting forth the names of the students, the governing board of the community college district may petition the board of supervisors of the county, the superintendent of schools of which has jurisdiction over the high school district, to annex the high school district to the community college district.

Where a community college was maintained by a high school district which has been formed as a community college district or portion thereof, the governing board of the community college district so formed may petition the board of supervisors of the county, the superintendent of schools of which has jurisdiction over another high school district, to annex such other high school district if it does not maintain its own community college and the president of the community college presents to the governing board of the community college district a statement, made under oath, that the average daily attendance in the community college of pupils whose parents reside in such other high school district was three or more for the two school years next preceding, setting forth the names of the students.

74311. Upon presentation of the petition, accompanied by the sworn statement of the president of the community college concerning the attendance and residence of the students, and the verification of the facts by the county superintendent of schools having jurisdiction over the community college district, the board of supervisors shall set the petition for hearing at a regular meeting of the board and shall publish in a newspaper of general circulation in the county once each week for at least two weeks prior to the hearing

a notice containing a general statement of the purpose of the petition and the time and place when and where the petition will be heard. The clerk of the board of supervisors shall mail a copy of the notice to each of the trustees of the high school district at least 10 days prior to the hearing.

74312. The board of supervisors shall at the time and place named in the notice meet to receive any protest which interested persons may present. If no protest is filed it shall make an order annexing the high school district to the community college district.

74313. If a petition protesting against the annexation, signed by 20 percent or more of the qualified electors of the high school district, as shown by the affidavit of one of the petitioners, is filed at the meeting, the board of supervisors shall order an election in the high school district to be held on the next established election date not less than 74 days after the making of the order, to determine the question. The election shall be called and held in the same manner as the elections for high school district bonds, except that the words to appear upon the ballot shall be "For annexation to (insert name of) Community College District—Yes" and "For annexation to (insert name of) Community College District—No," and except that the returns shall be made to the board of supervisors.

74314. If it appears that a majority of the votes cast at the election is in favor of the annexation, the board of supervisors shall make an order annexing the high school district to the community college district. The order shall be entered by the clerk of the board in his record of high school districts. He shall send a copy of the order to the county clerk of each county in which any part of the community college district is situated, who shall enter it in his record of community college districts.

74315. If it appears that a majority of the votes cast at the election is against the annexation, no other election shall be called on the question of annexation until one year from the date of the filing of the original petition.

74316. Whenever the governing board of each of two or more community college districts, under the provisions of this article, petitions the board of supervisors having jurisdiction for the annexation of the same high school district, the board shall refer the matter to the county superintendent of schools having jurisdiction over the high school district. The county superintendent shall make a recommendation on the matter, after which the board of supervisors shall make an order stating to which of the community college districts the high school district may be annexed.

74317. After the annexation of a high school district pursuant to this article, all property belonging to the original community college district is the property of the new community college district so formed.

### Article 3. Annexation of High School District Upon Petition of a High School Board

74320. The governing board of a high school district in which reside persons attending a regular day community college in a community college district may petition the board of supervisors of the county having jurisdiction over the high school district to annex the high school district to the community college district.

74321. The petition shall be accompanied by a verified copy of a resolution adopted by the governing board of the community college district named in the petition consenting to the annexation thereto of the high school district. Upon receipt of the petition and the resolution of consent, the board of supervisors shall call an election to be held in each elementary school district in the high school district named in the petition for the purpose of determining whether the high school district shall be annexed to the community college district.

74322. The election shall be called, held, and conducted in the same manner as are the elections of governing boards of elementary school districts, except that the words to appear upon the ballot shall be:

“For annexation to \_\_\_\_\_ (insert name) Community College District—Yes” and “For annexation to \_\_\_\_\_ (insert name) Community College District—No.”

74323. If it appears that a majority of all votes cast at the election were cast in favor of the annexation, the board of supervisors shall make an order annexing the high school district to the community college district. Upon the making of the order the annexation shall be deemed to have been made effective pursuant to the provisions of Sections 4060 and 4062.

### Article 4. Annexation of One Community College District by Another

74340. A community college district, hereinafter in this article called the petitioning district, may be annexed to another community college district, hereinafter in this article called the admitting district, upon such terms and conditions as may be agreed upon between the governing board of the petitioning district and the governing board of the admitting district.

74341. The proceedings for annexation of one community college district to another community college district may be commenced by the petitioning district in either of the following ways:

(a) The presentation to the superintendent of schools of each county in which any of the area of the petitioning district and of the admitting district lies, of a petition asking for the annexation of the district to a community college district, signed by 25 percent of the registered electors of the petitioning district.

(b) The presentation to the superintendent of schools of each

county in which any of the area of the petitioning district and of the admitting district lies, of a resolution of the governing board of the petitioning district asking for the annexation of the district to a community college district.

The petition or resolution presented pursuant to this section shall be accompanied by an agreement signed by a majority of the members of the governing board of the admitting district consenting to and agreeing to the annexation and setting forth the terms and conditions upon which the annexation shall be made.

74342. Upon presentation of a petition, the county superintendent or superintendents of schools, as the case may be, shall, after verifying the signatures thereon and finding them sufficient, within 20 days, call an election in the petitioning district in his county for the determination of the question and shall appoint three qualified electors in each component elementary or unified school district of the petitioning district to conduct the election.

Upon presentation of a resolution of the governing board of the district, the county superintendent or superintendents of schools shall, within 20 days, call the election in the petitioning district in his county for determination of the question and shall appoint three qualified electors in each elementary or unified school district of the petitioning district to conduct the election.

74343. The election shall be called in all respects as specified in Sections 4021, 4022, 5362, 72000, 74180, 74181, and 74182, whichever are applicable except that the form of the ballot shall be: "For annexation to the \_\_\_\_\_ Community College District—Yes" and "For annexation to the \_\_\_\_\_ Community College District—No" or words of similar import. If a majority of the votes cast in the entire petitioning district is in favor of the annexation, the annexation is complete. The result of the election shall be reported by the election officers in each elementary or unified school district to each superintendent of schools of any county in which the district is situated within five days after the election.

74344. Whenever a community college district is annexed to another community college district pursuant to this article, all funds, property, and obligations of the petitioning district shall become the funds, property, and obligations of the admitting district.

74345. Upon the effective date of the annexation of the district, for all purposes, to another district, the governing board of the district annexed ceases to exist.

#### Article 5. Annexation of Districts

74360. Any district may be annexed to a contiguous district of the same kind so that the annexed district ceases to exist and its territory is merged with and becomes a part of the annexing district.

74361. A high school or unified district may be annexed to a contiguous community college district so that the annexed district becomes a component district of the annexing district.

74362. Whenever provision is made in this article for the annexation of one school district to another, two or more school districts adjoining each other may be annexed simultaneously to a school district contiguous to one or more of the adjoining districts. If the proposed annexation of one of the adjoining districts fails and by reason of the failure any of the districts voting to be annexed would be noncontiguous to the annexing district, the annexation of the district or districts shall be void and of no effect.

74363. An annexation action pursuant to this article is initiated upon the filing with the county superintendent of schools of a petition for annexation and an agreement to the annexation.

74364. The petition for annexation shall be signed by 25 percent of the registered electors of the district proposed to be annexed or by a majority of the members of the governing board of that district.

74365. The agreement to the annexation shall be signed by a majority of the members of the governing board of the district to which annexation is proposed and of the governing board of the district of which the transferring district is a component.

74366. Terms and conditions for the annexation may be agreed upon by the governing board of the district seeking annexation and the governing board of the district to which annexation is sought. Such terms and conditions shall be signed by a majority of the members of governing boards agreeing thereto.

74367. The county superintendent of schools shall, within 20 days after receiving the petition for annexation, examine the petition and agreement and, if he finds them to be sufficient and signed as required by law, order an election to be held in the petitioning district to determine the question. The ballot used in the election shall contain the words "For annexation of the (name of petitioning district) District to the (name of annexing district) District" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

74368. An agreement to the annexation of a unified district, or a part of a high school or unified school district, to a community college district may include as a term or condition for such annexation the authorization and issuance of bonds of the unified district, or of the part of the high school or unified school district, in a specified amount for the purpose of paying an equitable share of the cost of the property owned or held by the community college district. In such event, the county superintendent of schools shall call and conduct a bond election within the unified district, or within the portion of the high school or unified school district to be annexed, to be held concurrently with the election or annexation. The governing board of the unified district or of the high school or unified district of which the territory to be annexed is a part may request the board of supervisors to issue and sell the bonds in the name of the unified district, and may request the county superintendent of schools to transfer to the community college district any funds derived from such sale of bonds. The county superintendent of schools shall order

such transfer as requested. Any funds so transferred may, after the annexation becomes effective, be expended for purposes authorized by law, throughout the community college district. Bonds issued pursuant to this section shall not be considered outstanding bonded indebtedness of the unified district or of the high school or unified district of which the territory to be annexed is a part for the purposes of Section 15106; however, such bonds shall be considered bonded indebtedness of the community college district for the purposes of Section 15104.

74369. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

74369. An agreement to the annexation of a high school or unified district, or any portion of such district or districts, to a contiguous community college district may include, as a term or condition for such annexation, the collection of a sum of money upon annexation, from within the area of the annexed district or portion of a district, for capital outlay purposes; and such condition shall be considered an inherent part of the annexation agreement and shall not be construed as a separate proposition. For purposes of raising this sum, the maximum tax rate for community college purposes within any district or portion of any district which has been annexed to a contiguous community college district pursuant to Article 5 (commencing with Section 74360) of Chapter 3 of this part is hereby increased by such amount as will produce within 10 fiscal years the sum included in any annexation agreement between the two districts. Any funds collected from such an increase shall be deposited to the credit of the community college district for expenditure for purposes authorized by law.

In addition to the words to be contained on the ballot pursuant to Section 74367, the ballot used in the election shall contain a statement that the maximum tax rate within the annexed districts or portions of districts will be increased by a specified amount as will produce the sum included in the annexation agreement.

The increase provided by this section shall not exceed twenty cents (\$.20) for each one hundred dollars (\$100) of the assessed value of the property within the high school or unified district, or portion thereof, and the increase shall be in addition to any other school district tax authorized by law to be levied.

The increase provided by this section shall remain in effect until the 10th consecutive fiscal year following the effective date of the annexation, or until such time as the sums agreed to in the annexation agreement referred to herein have been collected by the community college district, from within the annexed school district, or portion thereof, whichever period occurs first.

This section shall not apply whenever Section 74368 applies.

74370. Notwithstanding the prohibition established in Section 74369, the conditions of annexation may provide that the amount of bonds authorized pursuant to Section 74368 shall be reduced by the amount of funds raised pursuant to Section 74369. At no time may a tax be levied under both Sections 74368 and 74369 simultaneously.

## Article 6. Uniting of Districts

74380. Two or more contiguous community colleges may be united to form a single community college district in the same manner as provided in this code for the uniting of two or more contiguous elementary school districts.

## CHAPTER 4. TRANSFER

## Article 1. Transfer of Component Districts Between Community College Districts

74500. A high school or unified district may be transferred from one community college district to another pursuant to this chapter.

74501. An action to transfer a component district from one community college district to another district is initiated upon the filing with the county superintendent of schools of a petition for transfer and an agreement to the transfer.

74502. The petition shall be signed by 25 percent of the registered electors residing in the component district or community college district of which the component district is a part.

74503. The agreement to the transfer shall be signed by a majority of the members of the governing board of the community college district to which it is proposed to transfer the component district.

(Amended by Stats. 1976, Ch. 1011.)

## [ORIGINAL SECTION]

74503 The agreement to the transfer shall be signed by a majority of the members of the governing board of the high school or community college district to which it is proposed to transfer the component district.

74504. The county superintendent of schools shall, within 20 days after the filing of the petition for transfer, examine the petition and if he finds it to be sufficient and signed as required by law, transmit the petition to the office of the chancellor.

74505. When a petition for transfer of a component district is received in the office of the chancellor he shall set the petition for hearing at a regular or special meeting of the board. At least 30 days prior to the date of the hearing, he shall send by registered mail a notice containing a general statement of the purpose of the petition and the time and place of the hearing to each of the following persons or agencies:

(a) The governing board and district superintendent of each district whose boundaries would be affected by the proposed transfer.

(b) The county superintendent and county committee of each county which has jurisdiction over any of the districts whose boundaries would be affected.

(c) The persons designated in the petition as "chief petitioners."

74506. After hearing those who present themselves to speak on the petition, the Board of Governors of the California Community Colleges shall approve or disapprove the proposed transfer of the component district. Before approving or disapproving, the board of governors shall hear the findings and recommendations of the office of the Chancellor of the California Community Colleges. If the board approves the transfer, it shall determine whether the election shall be held only in the component district proposed to be transferred or

whether the election shall be held in the whole of the community college district from which the component district would be removed.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

74506. After hearing those who present themselves to speak on the petition, the Board of Governors of the California Community Colleges shall approve or disapprove the proposed transfer of the component district. Before approving or disapproving, the board of governors shall hear the findings and recommendations of the office of the Chancellor of the California Community Colleges. If the board approves the transfer, it shall determine whether the election shall be held only in the component district proposed to be transferred or whether the election shall be held in the whole of the high school or community college district from which the component district would be removed.

74507. If the board of governors approves the proposed transfer of the component district, the chancellor shall immediately notify the county superintendent of schools. Within 20 days after receiving the notification, he shall order an election in the district as determined by the board of governors. The ballot used in the election shall contain the words "For the transfer of \_\_\_\_\_ District from the \_\_\_\_\_ (community college) District to the \_\_\_\_\_ (community college) District" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

(Amended by Stats 1976, Ch. 1011 )

[ORIGINAL SECTION]

74507. If the board of governors approves the proposed transfer of the component district, the chancellor shall immediately notify the county superintendent of schools. Within 20 days after receiving the notification, he shall order an election in the district as determined by the board of governors. The ballot used in the election shall contain the words "For the transfer of \_\_\_\_\_ District from the \_\_\_\_\_ (high school or community college) District to the \_\_\_\_\_ (high school or community college) District" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

## Article 2. Transfer of Territory, General Provisions

74520. Whenever a district acquires or leases for a year or more a school site which is contiguous to its boundaries but which is not included in the boundaries of a chartered city, the site is transferred to the district which acquired or leased it. The county superintendent shall certify to the county supervisors that the property has been acquired or leased and the board shall issue the boundary change orders as provided in Section 4025.

74521. When territory is acquired or leased by a community college district and is transferred thereto pursuant to Section 74520 the territory is transferred also to a component district of the community college district.

74522. No proceedings affecting community college district boundaries shall operate to exclude a school site from the district owning the same if after such proceedings are complete the school site remains contiguous to the boundaries of the district. The school

site remains contiguous for the purpose of this section although separated from the boundaries of the district by a road, street, stream, or other natural or artificial barrier or right-of-way. Notwithstanding such proceedings the site shall continue to be a part of the district owning or occupying the same, and the buildings and improvements thereon shall remain the property of such district, except that, a plan for the formation of a new district from territory included in a union high school district, prepared by a committee, may specify whether the original or a new district shall have possession of the property.

74523. Territory annexed to a city which is not contiguous to a community college district within the city shall not automatically become a part of any community college district within such city pursuant to Section 35502.

74524. Territory annexed to a city pursuant to Articles 3, 4, 7, and 8 (commencing with Sections 35200, 35250, 35450, and 35470, respectively) of Chapter 1, Part 2, Division 2, Title 4 of the Government Code shall not automatically become a part of any school district within such city pursuant to Section 35502.

(Repealed and added by renumbering Section 74525 by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

74524. When territory is annexed to a city pursuant to the Annexation Act of 1913 (commencing with Government Code Section 35100) or the Annexation of Uninhabited Territory Act of 1939 (commencing with Government Code Section 35300), the territory does not thereby become a part of the school district of the city pursuant to Section 35502 unless the resolution required by Government Code Section 35117 or Section 35306, as the case may be, contains a statement that the annexed territory shall become a part of the school district of the city. A statement to transfer the annexed territory to the city school district shall not be included in such a resolution unless the territory is contiguous to the school district of the city and the governing boards of each of the districts whose boundaries would be changed have agreed in writing to the transfer. If the boundaries of three or more districts would be affected and only one of the districts is not in agreement with the others, the matter may be referred to the board of governors whose decision in the matter will be final.

74525. (Amended and renumbered Section 74524 by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

74525. Territory annexed to a city pursuant to Articles 3, 4, 7, and 8 (commencing with Sections 35200, 35250, 35450, and 35470, respectively) of Chapter 1, Part 2, Division 2, Title 4 of the Government Code shall not automatically become a part of any school district within such city pursuant to Section 35502.

74526. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

74526. Whenever a city is incorporated, except a general law city, the board of supervisors of the county may transfer to the city for school purposes only, the remainder, or any part of the remainder, of the district or districts from which the city was organized, whenever a majority of the electors residing therein petition for such transfer.

The board of supervisors either when the district is formed or subsequently may include more territory than the remainder of the district or districts from which the city was organized, whenever a petition for this purpose is presented to them, signed by the majority of the electors residing in the additional territory.

The territory transferred may be in either the same or a different county than that of the community college district to which it is transferred. If the territory transferred

lies in a county other than the county in which the district to which the territory is transferred lies, the district shall not become a joint district by reason of the transfer of such territory.

## CHAPTER 5. MISCELLANEOUS

### Article 1. Change of Boundaries and Transfer of Territory

74600. Whenever the boundary of any high school or unified district included in a community college district is changed by annexation, withdrawal, transfer of territory, operation of law or in any other manner, such change shall not effect a corresponding change in community college district boundaries, unless such change is provided for in the petition, the terms of agreement for annexation or transfer of territory or is recommended by the county committee on school district organization and unless the change is also approved by the governing boards of the community college districts affected.

74601. The boundaries of every community college district as the same were established for the purpose of the levy and collection of taxes for the fiscal year 1947-48, are hereby confirmed, validated, and declared legally effective for all purposes.

74602. If a new high school or unified district is formed from territory entirely within an existing community college district, the new high school or unified district shall continue to be a part of the community college district.

74603. Whenever a new high school or unified school district is formed to include territory of one or more community college districts, or from territory partly in a community college district and partly in no community college district, the boundary lines of the community college district or districts shall not change unless the county committee provides for a change of such boundaries in its plans for the formation of the high school or unified district.

74604. No part of a community college district may be changed by transfer of territory, annexation, withdrawal, operation of law, or any other manner unless the change is approved by the governing boards of the community college districts affected, or unless the electorate, by a majority vote of those voting at an election held for that purpose, approves the proposed change in accordance with procedures established by law.

### Article 2. Exclusion of High School Districts

74610. On or before the first day of February in any school year a majority of the electors residing in a community college district, and two-thirds of the electors residing in any high school district which is a part of the community college district, as shown by the affidavit of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the community college district, petitions asking for the exclusion of the high school

district from the community college district for the purpose of permitting the territory in the high school district to be formed into a community college district or to become a part of another community college district. The petitions shall be accompanied by an agreement signed by a majority of the governing board of the community college district, and a majority of the trustees of the high school district consenting to the exclusion and setting forth the terms of the agreement. The superintendent of schools shall, after verifying the signatures to the petitions and agreements and finding them sufficient, transmit the petitions and agreement to the board of supervisors of his county with his recommendations.

74611. The board of supervisors, after the receipt of the petitions and agreements, together with the recommendations of the superintendent of schools, may make an order excluding the high school district from the community college district upon the terms agreed on. The order withdrawing the high school district from the community college district shall not become effective until the high school district becomes a community college district or becomes a part of a community college district.

74612. The order of the board of supervisors excluding a high school district from a community college district shall be entered by the clerk of the board in his record of community college districts. He shall send a copy of the order to the county clerk of each county in which any part of the community college district is situated, who shall enter it in his record of community college districts.

### Article 3. Transfer of Territory From One Community College District to Another

74630. Any part of a community college district which is less than the whole of the district may be transferred from that district to another community college district pursuant to this article.

74631. An action to transfer inhabited territory from one community college district to another community college district is initiated upon the filing with the county superintendent of schools of a petition for transfer signed by either:

(a) Twenty-five percent of the registered electors residing in the territory proposed to be transferred, or

(b) A majority of the members of the governing board of each community college district affected by the proposed change.

A petition to be presented to electors for signature pursuant to subdivision (a) shall contain the proponent's statement of the reason or reasons for the proposed transfer.

This section shall not be applicable to any transfer to which the provisions of Section 74635 apply.

74632. An action to transfer uninhabited territory from a community college district is initiated upon the filing with the county superintendent of schools of a petition signed by either:

(a) A majority of the members of the governing board of each

district affected by the proposed change.

(b) The owner of the property, provided said owner has filed a tentative subdivision map with the appropriate county agency.

74633. Within 20 days after the filing of a petition under subdivision (b) of Section 74632, the county superintendent of schools shall transmit the petition to the governing board of the district to which the territory is to be transferred. Such governing board shall set a date for a hearing on the petition which shall be within 30 days of the receipt of the petition and the county superintendent shall notify the chief petitioner or petitioners of the time and place of the hearing. At the hearing the petitioners and any other interested persons shall be given an opportunity to present their views on the petition. The governing board then shall either approve or deny the petition. No transfer shall be made unless a majority of the members of the governing board sign a statement agreeing to the transfer. Upon completion of the hearing the governing board shall return the petition together with a notice of action of the governing board to the county superintendent of schools.

74634. The county superintendent of schools shall within 20 days after the filing of a petition under subdivision (a) or (b) of Section 74631 or subdivision (a) of Section 74632, examine it and, if he finds it to be sufficient and signed as required by law, transmit the petition to the county committee on school district organization.

If the petition is filed under subdivision (b) of Section 74632, accompanied by the statement agreeing to the transfer by the governing board of the district to which the territory is to be transferred, it shall be transmitted to the county committee on school district organization.

74635. An action to transfer inhabited territory from a community college district which is situated within a county of the first class to another such community college district is initiated upon the filing with the county superintendent of schools of a petition for transfer signed by:

(a) Ten percent of the registered electors residing in the district from which the territory is proposed to be transferred, and

(b) A majority of the members of the governing board of each school district affected by the proposed change.

74636. Within 20 days after the filing of a petition under Section 74635, the county superintendent of schools shall transmit the petition to the governing boards of the districts affected by the proposed change. Each governing board shall set a date for a hearing on the petition which shall be within 30 days of the receipt of the petition and the county superintendent shall notify the petitioners of the times and places of the hearings. At the hearings the petitioners and any other interested persons shall be given an opportunity to present their views on the petition. The governing boards then shall either approve or deny the petition. No transfer shall be made unless a majority of the members of both governing boards each sign a

statement agreeing to the transfer. Upon completion of the hearings the governing boards shall return the petition, together with a notice of action from each governing board, to the county superintendent of schools.

74637. The county superintendent of schools shall within 20 days after the filing of the petition pursuant to Section 74635, examine it and, if he finds it to be sufficient and signed as required by law, transmit the petition to the county committee on school district organization.

Notwithstanding any provision of this article to the contrary, if the transfer involves a minor change in district boundaries, defined as a transfer of territory involving less than 5 percent of the territory of the district from which the transfer is being made, the petition may be transmitted directly to the county board of supervisors by the county superintendent of schools, without submission to the county committee on school district organization, provided that this submission may not occur more than once every five years.

74638. A petition transmitted to the county committee pursuant to this article shall be considered at the next regular meeting of the committee or at a special meeting called for the purpose.

The county committee shall prepare a report and recommendation. It shall report as to whether or not in the opinion of the committee the proposed transfer would adversely affect the school district organization of the county; whether it is compatible with any master plans approved by the board of governors; and how, in the judgment of the committee, the proposed transfer will affect racial or ethnic integration of the schools of the districts affected. The report shall also contain a statement of the committee's findings on the adequacy of the proponent's stated reason or reasons for the proposed transfer, as set forth in the petition pursuant to Section 74631.

The report may include other pertinent matter which the county committee desires to bring to the attention of the board of governors, board of supervisors, or county board of education, as the case may be.

74639. If the county committee finds that the proposed transfer is compatible with the master plan of the county and would not adversely affect racial or ethnic integration of the schools of the districts affected, the petition and report shall be transmitted to the county board of supervisors or county board of education, as the case may be, by the county superintendent of schools.

If the county committee finds that the proposed transfer is incompatible with the master plan of the county or will adversely affect racial or ethnic integration of the schools of the districts affected, the report and petition shall be transmitted to the board of governors by the county superintendent of schools.

74640. The board of governors shall adopt guidelines which may be used by county committees in making their determination of whether a transfer of territory would adversely affect racial or ethnic

integration of the schools of the districts affected.

74641. (a) Any person questioning the finding of the county committee pursuant to Section 74639 that the proposed transfer of territory will not adversely affect the racial or ethnic integration of the schools of the districts affected, may appeal a decision made upon such a finding. The appeal shall be made to the board of governors within 30 days. The appeal shall be based upon factual and statistical evidence.

If the board of governors denies the appeal, the decision of the county board of supervisors or the county board of education shall stand. If the board of governors approves the appeal it shall review the findings of the county board of supervisors or the county board of education at a regular meeting of the board.

The board of governors shall notify the county committee, the county board of supervisors, or the county board of education of its decision on the appeal. For purposes of this section if the board of governors approves the appeal, the county board of supervisors or the county board of education shall transmit a copy of the proceedings to the board of governors within 30 days after receipt of notice. The board of governors shall review the transcript, considering all factors involved. The board of governors may affirm the decision of the county board of supervisors, or the county board of education, or if it appears that inadequate consideration was given to the effect of the transfer on integration of the schools of the districts affected, it shall direct the county board of supervisors or the county board of education to reconsider its decision and for this purpose to hold another hearing. The board of governors shall transmit a copy of its findings and recommendations to the county board of supervisors or the county board of education and the county committee on school district organization.

(b) The governing board of a community college district whose boundaries would be affected by the proposed change and the chief petitioners, if any have been designated, may appeal the decision of the county board of supervisors or the county board of education made following receipt of the report and recommendation of the county committee pursuant to Section 74638. The appeal shall be made to the board of governors within 30 days and shall be based upon factual evidence.

The appeal shall be heard in the same manner as a petition for a new district as provided in Section 74163. After hearing the matter, the board of governors shall grant or deny the appeal. If the board of governors denies the appeal, the decision of the county board of supervisors or the county board of education shall stand. If the board of governors grants the appeal, it may (1) reverse the decision of the county board of supervisors or the county board of education, (2) direct the county board of supervisors or county board of education to reconsider its decision, or (3) order an election to be held in the territory comprising the districts, the boundaries of which would be affected.

The board of governors shall notify the county committee, the county board of supervisors, the county board of education, the governing board of each district affected, and the chief petitioners, if any have been designated, of its decision.

74642. The petition shall be heard by the board of governors in the same manner as a petition for a new district as provided in Section 74163.

After hearing the matter, the board of governors shall grant or deny the petition. If the petition is granted, the board may order that the transfer be effected or order an election to be held in the territory. The board may determine that the election shall be held only in the territory proposed to be transferred or in the entire district from which the transfer is proposed to be made.

The chancellor shall return the petition to the county superintendent of schools together with a notice of the decision of the state board.

74643. After receiving notice of the action taken by the board of governors the county superintendent of schools shall (a) file the order of the board with the county board of supervisors which board shall make the order required by Section 4025, or (b) call and conduct an election as ordered by the board of governors.

74644. When the petition, report and recommendation are transmitted to the county board of supervisors, the county superintendent of schools shall set the matter for hearing by the board of supervisors at a regular meeting of the board.

At least 10 days prior to the date of the hearing the county superintendent shall send by certified mail a notice of hearing and a copy of the report and recommendation of the county committee to the chief petitioners, if any have been designated, and to the governing board of each community college district whose boundaries would be affected by the proposed change and shall post copies of the notice as provided in Section 5362 or publish a copy of the notice as provided in Section 5363.

74645. After hearing all interested persons, the board of supervisors shall grant or deny the petition or require an election to be held. If the board grants the petition it shall determine whether all or only a part of the territory shall be transferred. If the board requires an election to be held it shall determine whether the election shall be held in the whole community college district from which the territory would be transferred or whether the election shall be held only in the territory proposed to be transferred. The county superintendent of schools shall call, hold, and conduct any election required by this section.

74646. Notwithstanding any provisions of Section 74645 or other sections to the contrary:

(a) The governing board of the district to which the territory is to be transferred may file written opposition to the transfer with the county superintendent of schools prior to the hearing by the board of supervisors required to be held in accordance with Section 74644.

If written opposition to the transfer of inhabited territory is so filed, the county superintendent of schools shall require an election to be held on the question. The election shall be held in the community college district to which the territory is to be transferred.

(b) The governing board of the district from which the territory is to be transferred may file written opposition to the transfer with the county superintendent of schools prior to the hearing by the board of supervisors. If written opposition to the transfer of inhabited territory is so filed, the county superintendent of schools shall require an election to be held in the entire community college district from which the territory will be taken.

74647. An election conducted under provisions of this article shall be determined by the majority of votes cast.

#### Article 4. Transfer of Part of a Component District From One Community College District to Another Community College District

74660. Whenever parts of a high school or unified district are included in more than one community college district, any part or parts of the component districts may be transferred to the community college district which includes another part of the same component district pursuant to this article.

74661. An action to transfer a part of a component district from one community college district to another pursuant to this article is initiated upon the filing with the county superintendent of schools of a petition and agreement for transfer.

74662. The petition shall be signed by 25 percent of the registered electors residing in the part of the district proposed to be transferred or by a majority of the members of the governing board of the community college district from which the territory would be taken.

74663. The agreement to the transfer shall be signed by a majority of the members of the governing board of the community college district to which it is proposed to transfer the territory.

74664. The petition shall be acted upon in the same manner as is a petition for transfer of territory pursuant to Sections 74638 to 74644, inclusive.

#### Article 5. Lapse of Districts

74670. Any community college district which has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than 11 in grades 13 and 14.

74671. Within 30 days after the close of each school year the county superintendent of schools shall report to the county board of supervisors the name of any community college district under his jurisdiction wherein the number of registered electors is less than six

or the average daily attendance during the school year has been less than the numbers specified in Section 74670. The county superintendent shall at the same time recommend to the board of supervisors the district or districts to which the territory may best be annexed after the district has been lapsed.

74672. When the county board of supervisors receives the report of the county superintendent as provided in Section 74671 it shall order the district or districts to be lapsed. It shall also either order the territory of the lapsed district annexed to one or more adjoining districts as the county superintendent has recommended or it shall order a public hearing to be held on the question. If a public hearing is ordered the board shall fix the time thereof and shall provide that a notice be sent by registered mail at least 10 days before the hearing to each member of the governing boards of each of the community college districts which adjoin the lapsed district and to the persons who were members of the governing board of the lapsed district immediately prior to its lapsation. After the hearing the board of supervisors shall order the territory of the lapsed district annexed to one or more adjoining districts as seems to the board to be in the best interests of the adjoining districts and of the residents of the lapsed district.

74673. If the board of supervisors orders the territory of a lapsed district annexed to more than one adjoining district it may provide for such a division of funds, property, and obligations of the lapsed district as it deems most equitable in the circumstances. If no division is provided for by the board the general provisions of Article 7 (commencing with Section 4120) of Chapter 1 of Part 3 of Division 1 of Title 1 shall apply to the division of funds, property and obligations of the lapsed district.

## PART 47. STUDENTS

### CHAPTER 1. GENERAL PROVISIONS

#### Article 1. Admission of Students

76000. The governing board of a community college district maintaining a two-year community college shall admit to the community college any person possessing a high school diploma or the equivalent thereof.

Such governing board may admit to the community college any apprentice, as defined in Section 3077 of the Labor Code, who, in the judgment of the governing board or of the president of the community college if he is so authorized by rule of the governing board, is capable of profiting from the instruction offered.

Such governing board may by rule determine whether there shall be admitted to the community college any other person who is over 18 years of age and who, in the judgment of the board or of the president of the community college if he is so authorized by the rule,

is capable of profiting from the instruction offered. If the governing board determines to admit such other persons, any such person shall be admitted as a provisional student and thereafter shall be required to comply with the rules and regulations prescribed by the Board of Governors of the California Community Colleges or the chancellor's office pertaining to the scholastic achievement and other standards to be met by provisional or probationary students, as a condition to being readmitted in any succeeding semester. The provisions of this paragraph shall not apply to persons in attendance in special classes and programs established for adults pursuant to Chapter 3 (commencing with Section 78400) of Part 48, or to any persons attending on a part-time basis only.

76001. The president of any two-year community college may admit to the community college as a special part-time student any 11th- or 12th-grade high school student whose admission is recommended by his high school principal. A principal of a high school may recommend a high school student as a special part-time student pursuant to rules and regulations which may be adopted by the governing board of the district maintaining the high school. A principal of a high school shall not recommend a number of high school students in excess of 15 percent of the total number of 11th- and 12th-grade students enrolled in the high school at the time of recommendation.

The attendance of a student at community college as a special part-time student pursuant to this section is authorized attendance and the student shall receive credit for community college courses which he completes in the same manner as if he were a regularly enrolled community college student unless, upon agreement between the two districts, the student receives high school credit for the course completed.

Each special part-time student shall attend high school classes for at least the minimum schoolday.

76002. The president of any two-year community college may admit to the summer session of the community college as a special student any high school student who has completed the 11th grade and whose admission to summer session is recommended by the principal of the high school in which the student completed the 11th grade. A principal of a high school may recommend such a student as a special student pursuant to rules and regulations which may be adopted by the governing board of the district maintaining the high school. A principal of a high school shall not recommend a number of students who have completed the 11th grade in excess of 5 percent of the total number of students in the high school who have completed the 11th grade immediately prior to the time of recommendation.

The attendance of a student at community college as a special summer session student pursuant to this section shall be credited to the district maintaining the community college for the purposes of allowances and apportionments from the State School Fund, and the

student shall receive credit for community college courses which he completes, in the same manner as if he were a regularly enrolled community college student.

Sections 76001 and 48800 to 48802, inclusive, do not apply to the special students authorized to be admitted to a community college summer session pursuant to this section.

76003. The president of any community college may, in accordance with such rules as the governing board of the district maintaining the community college may adopt, admit to the community college any person who has served in the active military service of the United States or of the State of California for at least 90 days during a war with any foreign power or during any period of national emergency declared by the President of the United States.

76004. Any person, otherwise eligible for admission to any class or school of a school district of this state, whose parents are or are not citizens of the United States, whose actual and legal residence is in a foreign country adjacent to this state, and who regularly returns within a 24-hour period to said foreign country may be admitted to the class or school of the district by the governing board of the district.

76005. The governing board of the community college district shall, as a condition precedent to the admission of any person, under Section 76004, require the parent or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost of educating the person, including the total of the amounts expended per student for the current expenses of education, the use of buildings and equipment, the repayment of local bonds and interest payments and state building loan funds, capital outlay, and transportation to and from school. The per pupil cost attributable to capital outlay shall be on the basis of an average expenditure for the preceding five years. The cost of transportation shall not exceed ten dollars (\$10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of state funds. The school district shall not be eligible for nonimmigrant or noncitizen reimbursement under the provisions of Chapter 11 (commencing with Section 42900) of Part 24 of Division 1 of Title 1 for these students.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

76005 The governing board of the community college district shall, as a condition precedent to the admission of any person, under Section 76004, require the parent or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost of educating the person, including the total

of the amounts expended per pupil for the current expenses of education, the use of buildings and equipment, the repayment of local bonds and interest payments and state building loan funds, capital outlay, and transportation to and from school. The per pupil cost attributable to capital outlay shall be on the basis of an average expenditure for the preceding five years. The cost of transportation shall not exceed ten dollars (\$10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of state funds. The school district shall not be eligible for nonimmigrant or noncitizen reimbursement under the provisions of Chapter 11 (commencing with Section 42900) of Part 24 of Division 1 of Title 1 for these students.

76006. Notwithstanding any other provisions of this code, and except as provided in Section 3074.7 of the Labor Code, no charges or fees of any kind shall be required to be paid by an apprentice, or by his parents or guardian, for admission or attendance in any class in any school district which provides instruction under Section 3074 of the Labor Code in accord with the requirements of subdivision (d) of Section 3078 of that code. Nothing contained in this section, however, shall be construed as prohibiting the governing board of a school district providing nonresident apprentices of that district with such instruction under Section 3074 of the Labor Code from charging to, or collecting from, the school district in which such nonresident apprentices reside, tuition and other charges or fees in accordance with the definitions and provisions contained elsewhere in this code.

### Article 2. Exclusion of Students

(Heading of Article 2 amended by Stats. 1976, Ch. 1011)

[ORIGINAL HEADING]

#### Article 2. Exclusions of Students

76020. The governing body of any community college district may exclude students of filthy or vicious habits, or students suffering from contagious or infectious diseases.

76021. The governing board of the community college may exclude from attendance on regular classes any student whose physical or mental disability is such as to cause his attendance to be inimical to the welfare of other students.

### Article 3. Suspension or Expulsion

76030. An instructor may suspend, for good cause, any student from his or her class for the day of the suspension and the day following. The instructor shall immediately report the suspension to the president of the college and send the student to the president for appropriate action. If the student is a minor, the instructor shall ask the parent or guardian of the student to attend a parent conference regarding the suspension as soon as possible. A college administrator shall attend the conference if the instructor or the parent or guardian

so requests. The student shall not be returned to the class from which he was suspended, during the period of the suspension, without the concurrence of the instructor of the class and the president.

76031. The president of a college may suspend, for good cause, any student from the college, subject to the provisions of Section 76040. The president shall report the suspension of such a student to the governing board of the college district or to the district superintendent in accordance with the regulations of the governing board.

Any suspension pursuant to this section shall not exceed five schooldays.

76032. As used in Sections 76030 and 76031, "good cause" includes those offenses enumerated in Section 76033, but is not limited to those offenses.

76033. Continued willful disobedience, habitual profanity or vulgarity, open and persistent defiance of the authority of the college personnel, or assault or battery upon a student, upon college premises or while under the authority of college personnel, or continued abuse of college personnel, assault or battery upon college personnel, or any threat of force or violence directed toward college personnel, at any time or place shall constitute good cause for suspension or expulsion from the college; however, no student shall be suspended or expelled unless the conduct for which he is to be disciplined is related to college activity or college attendance.

76033.5. (a) Smoking or having tobacco on college premises, or while under the authority of college personnel, constitutes good cause for the suspension or expulsion of a student except as provided in this section.

(b) The governing board of a community college district may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a community college while under the authority of school personnel by students of the community college provided that such rules and regulations shall not permit students to smoke in any classroom or other enclosed facility which any student is required to occupy or which is customarily occupied by nonsmoking students.

76034. (a) For the protection of other students in the public college, the governing board of any community college district may suspend, or expel, and the superintendent or a president of any district when previously authorized by the governing board may suspend, a student whenever it is established to the satisfaction of the board or the superintendent or president, respectively, that the student has on community college premises or elsewhere used, sold, or been in possession of narcotics or other hallucinogenic drugs or substances, or has inhaled or breathed the fumes of, or ingested, any poison classified as such by Schedule "D" in Section 4160 of the Business and Professions Code.

76035. It is unlawful for any student, enrolled in any community college of this state, to join or become a member of any secret

fraternity, sorority, or club, wholly or partly formed from the membership of students attending the public schools, or to take part in the organization or formation of any fraternity, sorority, or secret club. Nothing in this section shall be construed to prevent any student from joining the order of the Native Sons of the Golden West, Native Daughters of the Golden West, Foresters of America, or other kindred organizations not directly associated with the community colleges of the state.

76036. Any governing board may enforce the provisions of Section 72235 by suspending, or, if necessary, expelling a student in any community college who refuses or neglects to obey any rules prescribed pursuant to that section.

76037. The governing board of any community college district shall suspend or expel students for misconduct when other means of correction fail to bring about proper conduct.

76038. The chief administrative employee at a community college shall, prior to the suspension or expulsion of any student, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the student which may be violative of Section 245 of the Penal Code.

76039. Any minor whose willful misconduct results in injury or death to any student or any person employed by or performing volunteer services for a community college district or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a community college district is liable to suspension or expulsion, and the parent or guardian of an unemancipated minor shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed two thousand dollars (\$2,000). The parent or guardian shall also be liable for the amount of any reward not exceeding two thousand dollars (\$2,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a community college district for all property belonging to the community college district loaned to the minor and not returned upon demand of an employee of the district authorized to make the demand.

76040. Whenever a minor student is suspended from a community college, the parent or guardian shall be notified of such action. Any notification to a student's parent or guardian concerning the suspension of the minor shall be signed by the college president or his designee.

76042. All students shall comply with the regulations, pursue the required course of study, and submit to the authority of the instructors of the colleges.

76043. A violation or violations of any law, ordinance, regulation, or rule regulating or pertaining to the parking of vehicles, shall not be cause for the suspension or expulsion of a student from a community college.

## Article 4. Student Organizations

76060. Any group of students may organize a student body association within the community colleges with the approval and subject to the control and regulation of the governing board of the community college district. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the community colleges officials. Any student body organization may be granted the use of community college premises and properties without charge subject to such regulations as may be established by the governing board of the community college district.

76062. The governing board of any community college district may authorize any organization composed entirely of students attending the colleges of the district to maintain such activities, including fundraising activities, as may be approved by the governing board.

The governing board of any community college district may, by resolution, authorize any student body organization to conduct fundraising activities on community college property during school hours provided that the governing board has determined that such activities will not interfere with the normal conduct of the community colleges.

76063. The funds of any student body organization established in the public schools of any community college district shall, subject to approval of the governing board of the district, be deposited or invested in one or more of the following ways:

(a) Deposits in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of United States savings bonds (Series F and G) as authorized for investment by subdivision (a) of Section 16430 of the Government Code.

(d) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union in this state, organized under the provisions of Division 5 (commencing with Section 14000) of the Financial Code or the statutes of the United States relating to credit unions insured by the administrator of the National Credit Union Administration or a comparable agency as provided by a state government.

The funds shall be expended subject to such procedure as may be established by the student body organization subject to the approval of each of the following three persons which shall be obtained each time before any of such funds may be expended: an employee or

official of the community college district designated by the governing board, the certificated employee who is the designated adviser of the particular student body organization, and a representative of the particular student body organization.

76064. In addition to deposit or investment pursuant to Section 76063, the funds of a student body organization may be loaned or invested in any of the following ways:

(a) Loans, with or without interest, to any student body organization established in another community college of the district for a period not to exceed three years.

(b) Invest money in permanent improvements to any community college district property including, but not limited to, buildings, automobile parking facilities, gymnasiums, swimming pools, stadia and playing fields, where such facilities, or portions thereof, are used for conducting student extracurricular activities or student spectator sports, or when such improvements are for the benefit of the student body. Such investment shall be made on condition that the principal amount of the investment plus a reasonable amount of interest thereon shall be returned to the student body organization as provided herein. Any community college district approving such an investment shall establish a special fund in which moneys derived from the rental of community college district property to student body organizations shall be deposited. Moneys collected by the governing board for automobile parking facilities as authorized by Section 72246 shall be deposited in the special fund if the parking facilities were provided for by investment of student body funds under this section. Moneys shall be returned to the student body organization as contemplated by this section exclusively from such special fund and only to the extent that there are moneys in such special fund. Whenever there are no outstanding obligations against the special fund, all moneys therein may be transferred to the general fund of the school district by action of the local governing board.

Two or more student body organizations of the same community college district may join together in making such investments in the same manner as is authorized herein for a single student body. Nothing herein shall be construed so as to limit the discretion of the local governing board in charging rental for use of community college district property by student body organizations as provided in Section 76060.

76065. The governing board of any community college district shall provide for the supervision of all funds raised by any student body or student organization using the name of the college.

The cost of supervision may constitute a proper charge against the funds of the district.

The governing board of a community college district may also provide for a continuing audit of student body funds with community college district personnel.

76066. In schools or classes for adults, regional occupational

centers or programs, or in elementary schools in which the student body is not organized, the governing board may appoint an employee or official to act as trustee for student body funds and to receive said funds in accordance with procedures established by the board. These funds shall be deposited in a bank approved by the board and shall be expended subject to the approval of said appointed employee or official and also subject to such procedure as may be established by the board.

76067. Any student political organization which is affiliated with the official youth division of any political party that is on the ballot of the State of California may hold meetings on a community college campus and may distribute bulletins and circulars concerning its meetings, provided that there is no endorsement of such organization by the school authorities and no interference with the regular educational program of the school.

#### Article 5. Athletic Programs

76100. It is the intent of the Legislature that opportunities for participation in athletics be provided on an equitable basis to all students.

It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports.

76101. Insofar as practicable, in apportioning public funds school district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs.

76102. Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a school district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

#### Article 6. Meals and Lodging for Athletes

76110. The governing board of a community college district may provide meals and lodging for each member of an athletic team comprised of students at the community college attending upon and participating in an athletic event at a place other than the school which the members of the athletic team attend, where the event is of such a distance from the school as to necessitate obtaining meals or lodging away from home. The governing board may pay for such

meals and lodging out of any funds of the district available for the purpose.

### Article 7. Exercise of Free Expression

76120. The governing board of a community college district shall adopt rules and regulations relating to the exercise of free expression by students upon the premises of each community college maintained by the district, which shall include reasonable provisions for the time, place, and manner of conducting such activities.

Such rules and regulations shall not prohibit the right of students to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges, or other insignia, except that expression which is obscene, libelous or slanderous according to current legal standards, or which so incites students as to create a clear and present danger of the commission of unlawful acts on community college premises, or the violation of lawful community college regulations, or the substantial disruption of the orderly operation of the community college, shall be prohibited.

### Article 8. Administration of Punishment to Students

76130. The governing board of any community college district shall adopt rules and regulations authorizing instructors, supervisors, and other certificated personnel to administer reasonable corporal or other punishment to students when such action is deemed an appropriate corrective measure except as provided in Section 76131.

(Amended by Stats. 1976, Ch. 1011.)

#### [ORIGINAL SECTION]

76130. The governing board of any community college district shall adopt rules and regulations authorizing instructors, supervisors, and other certificated personnel to administer reasonable corporal or other punishment to pupils when such action is deemed an appropriate corrective measure except as provided in Section 76131.

76131. No corporal punishment shall be administered to an educationally handicapped student, a physically handicapped student, or a mentally retarded student, as defined pursuant to Section 56515, 56802, 78600, 78702, or 78801, enrolled in special education classes, without the prior written consent of the student's parent or guardian.

(Amended by Stats. 1976, Ch. 1011.)

#### [ORIGINAL SECTION]

76131 No corporal punishment shall be administered to an educationally handicapped pupil, a physically handicapped pupil, or a mentally retarded pupil, as defined pursuant to Section 56515, 56802, 78600, 78702, or 78801, enrolled in special education classes, without the prior written consent of the pupil's parent or guardian

## Article 9. Nonresident Tuition

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee nonresidents who (a) enroll for six units or less or (b) are both citizens and residents of a foreign country. Any exemptions shall be made with regard to all nonresidents described in (a) or (b) and shall not be made on an individual basis.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in grades 13 and 14.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in grades 13 and 14, or (b) the statewide average current expenditure per unit of average daily attendance in grades 13 and 14 during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance, except that

the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.

76141. The governing board of a necessary small community college district, as defined in Section 84722, which has constructed and is operating student dormitories financed under provisions of the Community College Revenue Bond Act of 1961 (Chapter 5 (commencing with Section 81900) of Part 49 of this division) or with district funds may elect to be exempted from the provisions of Section 76140 until January 1, 1980, provided that such governing board shall charge a nonresident tuition fee equal to the statewide average current expenditure for education in the preceding fiscal year. The same per-unit rate shall be charged all nonresident students attending any summer sessions maintained by the community college district.

76142. No fee may be charged to any apprentice who is not a resident of California for attendance in a California community college in classes of related and supplemental instruction as provided under Section 3074 of the Labor Code and in accord with the requirements as set forth in subdivision (d) of Section 3078 of that code.

76143. For purposes of the nonresident tuition fee, a community college district shall disregard the time during which a student living in the district resided outside the state, if:

(1) The change of residence to a place outside the state was due to a job transfer and was made at the request of the student's employer or, in the case of a student who resided with, and was a dependent of, the student's parents, the change of residence was made at the request of an employer of either of the student's parents.

(2) Such absence from the state was for a period of not more than four years.

(3) At the time of application for admission to a college maintained by the district, the student would qualify as a resident if the period of the student's absence from the state was disregarded.

A nonresident tuition fee shall not be charged to a student who meets each of the conditions specified in subdivisions (1) to (3), inclusive.

#### Article 10. Miscellaneous

76160. Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service with the armed forces of the United States, who resides in this state and more than ninety (90) miles from the nearest public community college attendance center where grades 13 and 14 are maintained, measured by the usual vehicular route between his home and such attendance center, may at his request attend grades 13 and 14 at any public

community college in the state, whether or not his residence is in a district maintaining a community college. The governing board of the district maintaining such community college designated by the student shall admit the student provided he otherwise qualifies for admission.

The provisions of the preceding paragraph of this section shall be inapplicable to any student residing in a district maintaining a community college if the Chancellor, California Community Colleges determines that such district maintains adequate dormitories or housing facilities or provides adequate transportation for such student between his home and the community college attendance center.

If the student resides in a district maintaining a community college, the district of the student's residence shall pay to the district of the student's attendance an amount on account of such attendance computed pursuant to Section 2100. The computation shall be made and other procedures shall be undertaken in accordance with such requirements as may be prescribed by the board of governors, by or under authority of the governing board of the community college district of attendance, and shall be approved by the county superintendent of schools having jurisdiction of such district with the certification of the amount owing to be transmitted by him to the district of the student's residence. The governing board of the district of residence shall, on or before June 1st, order payment of the amount computed as owing the district of attendance for the fiscal year, and upon failure of the governing board so to do, the county superintendent of schools having jurisdiction of the district shall draw a requisition against the funds of the district in favor of the district of attendance in payment of such amount and transmit the same to the district of attendance. For purposes of all provisions of this code dealing with allowances and apportionments from the State School Fund for support of community colleges, the district of the student's residence and the district of his attendance shall be deemed to have entered into an interdistrict attendance agreement with respect to the student.

If the student resides within territory not included within any community college district the provisions of Chapter 8 (commencing with Section 2100) of Part 2 of Division 1 of Title 1 shall be applicable.

In addition to the payments required under the preceding paragraphs of this section, there shall be paid to the parents or other persons having charge or control of such student at his residence and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance of one dollar and fifty cents (\$1.50) per calendar day or not more than two dollars (\$2) per calendar day, if the county board of supervisors of the county of residence determines such larger amount to be more appropriate, for the period in which the student is enrolled full time in regular classes in a community college under this section. Such amount shall be paid on or before the 15th day after the close of the

school year in which the student was so enrolled. Such payments made by a district maintaining a community college at which the student attends shall be included in that district's transportation expense as payments made in lieu of providing for transportation of students between their homes and regular full-time day schools, for purposes of Article 9 (commencing with Section 84810) of Part 50 of this division and the amount thereof not reimbursed by the state shall be included in the computation of the amount to be paid by the district of the student's residence, or the community college tuition fund, as the case may be.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he was honorably discharged from the armed forces of the United States or (b) if he was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and (1) satisfactorily completes his period of training and service under such act and is issued a certificate to that effect pursuant to such act, or (2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to such act, or (3) was otherwise released pursuant to such act under honorable conditions.

For the purposes of this section, the term "armed forces of the United States" shall include all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretaries of the Army, Navy, and Air Force, and all components of the Coast Guard.

## CHAPTER 1.5. STUDENT RECORDS

### Article 1. Legislative Intent

76200. It is the intent of the Legislature to resolve potential conflicts between California law and the provisions of Public Law 93-380 regarding the confidentiality of student records in order to insure the continuance of federal education funds to public community colleges within the state, and to revise generally and update the law relating to such records.

### Article 2. Definitions

76210. As used in this chapter:

(a) "Student record" means any item of information directly related to an identifiable student, other than directory information, which is maintained by a community college or required to be maintained by any employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Student record" shall not mean information provided by a student's parents relating to applications for financial aid or

scholarships, nor shall it mean information related to a student compiled by a community college officer or employee which remains in the sole possession of the maker and is not accessible or revealed to any other person, including information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are created, maintained, or used only in connection with the provision of treatment to the student and are not available to anyone other than persons providing such treatment; provided, however, that such records may be personally reviewed by a physician or other appropriate professional of the student's choice.

(b) "Student record" shall not mean information maintained by a law enforcement unit if the personnel of the unit do not have access to student records pursuant to Section 76243, if the information maintained by the unit is kept apart from information maintained pursuant to subdivision (a) of this section, if the information is maintained solely for law enforcement purposes, and if the information is not made available to persons other than law enforcement officials of the same jurisdiction.

(c) "Directory information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student, and any other information authorized in writing by the student.

(d) "Access" means a personal inspection and review of a record or an accurate copy of a record, or an oral description or communication of a record or an accurate copy of a record, or a request to release a copy of any record.

### Article 3. General Provisions

76220. Community college districts shall establish, maintain, and destroy student records according to regulations adopted by the Board of Governors of the California Community Colleges. Such regulations shall establish state policy as to what items of information shall be placed into student records and what information is appropriate to be compiled by individual community college officers or employees under the exception to student records provided in subdivisions (a) and (b) of Section 76210. No student records shall be destroyed except pursuant to such regulations or as provided in subdivisions (b) and (c) of Section 76232.

76221. Community college districts shall notify students of their rights under this chapter upon the date of the student's enrollment next following its effective date, and at least annually thereafter. The notice shall be, insofar as is practicable, in the home language of the

student. The notice shall take a form which reasonably notifies students of the availability of the following specific information:

(a) The types of student records and information contained therein which are directly related to students and maintained by the institution.

(b) The official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have such access.

(c) The policies of the institution for reviewing and expunging those records.

(d) The right of the student to access to his records.

(e) The procedures for challenging the content of student records.

(f) The cost if any which will be charged for reproducing copies of records.

(g) The categories of information which the institution has designated as directory information pursuant to Section 76240 and the parties to whom such information will be released unless the student objects.

(h) Any other rights and requirements set forth in this chapter.

76222. A log or record shall be maintained for each student's record which lists all persons or organizations requesting or receiving information from the record excepting school personnel and the reasons therefor. The log shall be open to inspection only by the student and the community college official or his designee responsible for the maintenance of student records.

76223. Any community college may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any student record; provided, however, that no charge shall be made for furnishing (1) up to two transcripts of former students' records or (2) up to two verifications of various records of former students.

76224. (a) When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final.

(b) No grade of a student participating in a physical education class, however, may be adversely affected due to the fact that the student does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the student.

76225. Whenever a student transfers from one community college or public or private institution of postsecondary education to another within the state, appropriate records or a copy thereof shall be transferred by the former community college, college or university, or school or school district upon a request from the community college, college or university, or school or school district where the student intends to enroll; provided, however, that the community college, college or university, or school or school district

from which the student is transferring may notify the community college, college or university, or school or school district making such a request that the student's records will be transferred upon payment by the student of all fees and charges due the community college, college or university, or school or school district. Any community college, college or university, or school or school district making such a transfer of such records shall notify the student of his right to receive a copy of the record and his right to a hearing to challenge the content of the record.

The Board of Governors of the California Community Colleges may adopt rules and regulations concerning transfer of such records to, from, or between schools under its jurisdiction.

#### Article 4. Rights of Students

76230. Any currently enrolled or former student has a right to access to any and all student records relating to him maintained by community colleges. The editing or withholding of any such records is prohibited.

Each community college district shall adopt procedures for the granting of requests by students to inspect and review records during regular school hours, provided that access shall be granted no later than five days following the date of the request. Procedures shall include notification of the location of all official student records if not centrally located and the providing of qualified personnel to interpret records where appropriate.

76231. A student may be requested to waive his right to access to student records devoted solely to confidential recommendations for career placement or postsecondary admission, provided that the student shall be notified, upon request, of the names of all persons making confidential recommendations. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a community college.

76232. (a) Any student may file a written request with the chief administrative officer of a community college district to remove information recorded in his student records which he alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of competence; or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the chief administrative officer or his designee shall meet with the student and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the community college district. The chief administrative officer shall then sustain or deny the allegations.

If the chief administrative officer sustains the allegations, he shall order the removal and destruction of the information.

If the chief administrative officer denies the allegations and refuses to order the removal of the information, the student may, within 30 days of the refusal, appeal the decision in writing to the governing board of the community college district.

(c) Within 30 days of receipt of such an appeal, the governing board shall, in closed session with the student and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the community college district, determine whether to sustain or deny the allegations.

If the governing board sustains the allegations, it shall order the chief administrative officer to immediately remove and destroy the information.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the student initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the student, or if the student accepts an unfavorable decision by the chief administrative officer, the student shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the student's record until such time as the information objected to is removed.

76233. Whenever there is included in any student record information concerning any disciplinary action taken by community college personnel in connection with the student, the student shall be allowed to include in such record a written statement or response concerning the disciplinary action.

#### Article 5. Privacy of Student Records

76240. Community college districts shall adopt a policy identifying those categories of directory information as defined in subdivision (c) of Section 76210 which may be released. The district shall determine which officials or organizations may receive directory information, provided, however, that no information may be released to a private profitmaking entity other than prospective employers and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations. The names and addresses of students may be provided to a private school or college operating under the provisions of Sections 8080-8093, 33190-33192, 60670-60672, 94000-94409, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars (\$2,500), and, in addition, the privilege of the school or college to receive such

information shall be suspended for a period of two years from the time of discovery of the misuse of such information.

Any community college district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students.

Directory information may be released according to local policy as to any student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. No directory information shall be released regarding any student when the student has notified the school that such information shall not be released.

76241. Nothing in this chapter shall preclude a community college from providing, in its discretion, statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interests of students.

76242. A community college district may permit access to student records to any person for whom the student has executed written consent specifying the records to be released and identifying the party to whom the records may be released. The recipient must be notified that the transmission of the information to others is prohibited. The consent notice shall be permanently kept with the record file.

76243. A community college or community college district is not authorized to permit access to student records to any person without the written consent of the student or under judicial order except that:

(a) Access shall be permitted to the following:

(1) Officials and employees of the college or district, provided that any such person has a legitimate educational interest to inspect a record.

(2) Federal or state education officials or the county superintendent of education, or their respective designees, or the United States Office for Civil Rights, where such information is necessary to audit or evaluate a state or federally funded program or pursuant to a federal or state law.

(3) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law.

(4) Parents of a student who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(b) Access may be permitted to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) Officials and employees of other public or private schools or school systems, including local, county, or state correctional facilities

where educational programs are provided, where the student has been enrolled, intends to enroll, or is directed to enroll, subject to the rights of students as provided in Section 76225 of this code.

(3) Agencies or organizations in connection with a student's application for, or receipt of, financial aid.

(4) Accrediting associations carrying out accrediting functions.

(5) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

No person, persons, agency or organization permitted access to student records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency, or organization without the written consent of the student; provided, however, that this paragraph shall not be construed as to require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have an equal legitimate interest in the information.

76244. Information concerning a student shall be furnished in compliance with a court order. The student shall be notified in advance of such compliance by the college employee who complies and releases the information if lawfully possible within the requirements of the judicial order.

76245. The service of a subpoena upon a community college employee solely for the purpose of causing him to produce a school record pertaining to any student may be complied with by such employee, in lieu of personal appearance as a witness in the proceeding, by submitting to the court, or other agency issuing the subpoena, at the time and place required by the subpoena, a copy of such record, accompanied by an affidavit certifying that such copy is a true copy of the original record on file in the community college or community college office. The copy of the record shall be in the form of a photostat, microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

76246. The Board of Governors of the California Community Colleges shall adopt appropriate rules and regulations to insure the orderly implementation of this chapter. A community college district governing board may adopt rules and regulations which are not inconsistent with this chapter or with those adopted by the board of governors in order to ensure the orderly implementation of this chapter.

**CHAPTER 2. ATTENDANCE****Article 1. General Provisions**

76300. Attendance in all schools and classes shall be recorded and kept according to regulations prescribed by the board of governors, subject to the provisions of this chapter.

76301. The governing board of each community college district shall, subject to the provisions of this chapter, fix the length of the schoolday for the several grades and classes of the schools maintained by the district.

76302. The total days of attendance of a student in a regular full-time day community college during the fiscal year shall be the number of days actually taught for not less than the minimum college days during the fiscal year.

**Article 2. Minimum Schoolday**

76310. In any community college district students in 13th- and 14th-grade courses shall not be credited, on a district average, with more than 18 class hours of attendance during any five-day week of each regular semester or quarter, exclusive of attendance at summer schools.

The chancellor's office shall adopt such regulations as may be necessary to carry out the provisions of this section.

76311. The minimum schoolday in any community college, other than an evening community college, is 180 minutes.

76312. With respect to educationally handicapped students provided instruction pursuant to Chapter 4 (commencing with Section 78600), of Part 48 of this division, the minimum schoolday in any high school is 240 minutes.

76313. The minimum day in special day or Saturday vocational training programs and for students enrolled in a work experience education program approved under the provisions of Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of this division is 180 minutes.

**Article 3. Adults**

76320. In classes for adults, a day of attendance is 180 minutes of attendance but no student shall be credited with more than 15 clock hours of attendance during any one school week unless he is enrolled in a class in elementary subjects, a class for which high school credit is given, a class in English for foreigners, a class in citizenship, or a class in a trade or industrial subject as trade or industrial subject is defined by the chancellor's office for community colleges.

76321. In classes for adults maintained for adults in any county jail, or any county industrial farm or county or joint county road camp, a day of attendance is 180 minutes of attendance; but no

student in such a class shall be credited with more than one day of attendance in any calendar day, nor with more than 15 clock hours of attendance during any one school week.

76322. Each clock hour of instruction time devoted to the individual instruction of physically handicapped adults who are patients in a tuberculosis ward or hospital maintained by one or more counties shall count as one day of attendance but no such adult shall be credited with more than one day of attendance in any calendar day.

#### Article 4. Physically Handicapped Students

76330. Attendance of physically handicapped students in a graded special class for the same number of minutes as constitute a day of attendance in the same grade of regular classes shall constitute a day of attendance, except for such minors 16 years of age and over who are enrolled in an approved occupational training program or work experience education program. Each clock hour of teaching time devoted to individual instruction of physically handicapped students shall count as one day of attendance. Whenever one to four physically handicapped students are instructed at the same time by the same instructor in a remedial class conducted by a community college district or the county superintendent of schools, the total attendance credited for such students shall equal one unit of attendance for each 60 minutes of instruction. The average daily attendance of all physically handicapped students shall be computed by dividing the total number of days of attendance of the students by the number of days taught in the regular schools of the district.

Notwithstanding any provision of this code to the contrary, however, when a physically handicapped minor 16 years of age or over is enrolled in an approved occupational training program pursuant to Sections 78840 and 78842, two clock hours of attendance in a special day school or class in combination with two clock hours of attendance in such an occupational training program shall count as one day of attendance.

Notwithstanding any provision of this code to the contrary, however, when a physically handicapped minor 16 years of age or over is enrolled in an approved off-campus work experience education or work-study program, one day of attendance may consist of either: (a) two class hours of attendance in a special or regular day class and two clock hours of attendance in such a program; or, (b) three class hours of attendance in a special or regular day class and one clock hour of attendance in such a program.

No such student shall be credited with more than five days of attendance per calendar week or more than the number of calendar days such special day school or class is maintained in such fiscal year.

76331. With respect to physically handicapped students given instruction at home or in a hospital or in the case of minors with speech disorders or defects who may be admitted at the age of three

years for individual or small group instruction of four students or less at the school, each clock hour of teaching time devoted to the instruction of such students shall count as one day of attendance. No provision of this chapter limiting the number of days of attendance with which a student may be credited in any one calendar day is applicable to such student but no such student shall be given individual instruction for more than three hours in any one day or credited with more days of attendance for individual instruction during any fiscal year than the number of legal calendar days school may be maintained during such fiscal year.

76332. The attendance of all physically handicapped students given instruction by a community college district, including those instructed under cooperative arrangements with the Bureau of Vocational Rehabilitation of the State Department of Education, shall be reported annually to the county superintendent of schools together with all other attendance on forms provided by the board of governors.

#### Article 5. Educationally Handicapped Students

76340. Attendance of educationally handicapped students as identified pursuant to Chapter 4 (commencing with Section 78600) of Part 48 of this division enrolled in a special day class, who attend school for the same number of minutes as constitute a minimum schoolday prescribed in Section 76312 shall constitute a day of attendance. Each clock hour of teaching time devoted to individual instruction of educationally handicapped students shall count as one day of attendance. The average daily attendance of all educationally handicapped students shall be computed by dividing the total number of days of attendance of the students by the number of days taught in the regular schools of the district.

(Amended by Stats. 1976, Ch. 1011 )

#### [ORIGINAL SECTION]

76340. Attendance of educationally handicapped students as identified pursuant to Chapter 4 (commencing with Section 78600) of Part 48 of this division enrolled in a special day class, who attend school for the same number of minutes as constitute a minimum schoolday prescribed in Section 76312, shall constitute a day of attendance. Each clock hour of teaching time devoted to individual instruction of educationally handicapped pupils shall count as one day of attendance. The average daily attendance of all educationally handicapped students shall be computed by dividing the total number of days of attendance of the students by the number of days taught in the regular schools of the district.

76341. With respect to educationally handicapped students given instruction at home, in a hospital, or in a regularly established nonprofit, tax-exempt, licensed children's institution, each clock hour of teaching time devoted to the individual instruction of such students shall count as one day of attendance. No provision of this chapter limiting the number of days of attendance with which a student may be credited in any one calendar day is applicable to such students, but no such student shall be given individual instruction for more than three hours in any one day or credited with more days of

attendance for individual instruction during any fiscal year than the number of legal calendar days school may be maintained during such fiscal year.

76342. The attendance of all educationally handicapped students given instruction by a community college district shall be reported annually to the county superintendent of schools together with all other attendance on forms provided by the board of governors.

### CHAPTER 3. STUDENT HEALTH SERVICES AND SUPERVISION

#### Article 1. General Provisions

76400. The governing board of any community college district shall give diligent care to the health and physical development of students, and may employ properly certified persons for the work.

76401. The governing board of any community college district may provide for proper health supervision of the school buildings and students enrolled in the public schools under its jurisdiction.

76402. Contracts between any city, county, or local health district and the governing board of any community college district located wholly or partially within such city, county, or local health district for the performance by the health officers or other employees of the health department of such city, county, or local health district of any or all of the functions and duties set forth in this chapter and in Article 1 (commencing with Section 49300) of Chapter 8 of Part 27 of Division 4 of Title 2 relating to health supervision of school buildings and students are hereby authorized.

In any such contracts the consideration shall be such as may be agreed upon by the governing board and the city, county, or local health district and shall be paid by the governing board at such times as shall be specified in the contract. This section shall not apply to any district which is under the control of a governing board which has under its control a district or districts having a total average daily attendance of 100,000 or more students.

76403. (a) Anything to the contrary notwithstanding, the governing board of any community college district shall cooperate with the local health officer in measures necessary for the prevention and control of communicable diseases in students. For that purpose the board may use any funds, property, and personnel of the district, and may permit any person licensed as a physician and surgeon, or any person licensed as a registered nurse acting under the direction of a supervising physician and surgeon as provided in subdivisions (b) and (c), to administer an immunizing agent to any student. Parents shall have consented in writing to the administration of such immunizing agent.

(b) A registered nurse, acting under the direction of a supervising physician and surgeon, may perform immunization techniques within the course of a school immunization program provided that the administration of an immunizing agent is upon the standing

orders of a supervising physician and surgeon and in accordance with such written regulations as the State Department of Health may adopt pursuant to Section 303.5 of the Health and Safety Code.

“Supervising physician and surgeon,” as used herein, means the physician and surgeon of the local health department or the physician and surgeon of the district that is directing the school immunization program.

(c) While nothing in this section shall be construed to require the physical presence of the supervising physician and surgeon, the supervising physician and surgeon under whose direction the registered nurse is acting shall require such nurse to:

(1) Satisfactorily demonstrate competence in the administration of immunizing agents, including knowledge of all indications and contraindications for the administration of such agents, and in the recognition and treatment of any emergency reactions to such agents which constitute a danger to the health or life of the person receiving the immunization; and

(2) Possess such medications and equipment as required, in the medical judgment of the supervising physician and surgeon, to treat any emergency conditions and reactions caused by the immunizing agents and which constitute a danger to the health or life of the person receiving the immunization, and to demonstrate the ability to administer such medications and to utilize such equipment as necessary.

76404. The governing board of any community college district is hereby authorized to expend funds under its jurisdiction for the purpose of carrying out the provisions of this chapter and Chapter 1 (commencing with Section 32000) of Part 19 of Division 1 of Title 1, and the provisions of Chapter 8 (commencing with Section 3400) of Division 4 of the Health and Safety Code.

76405. The control of smallpox is under the direction of the State Board of Health, and no rule or regulation on the subject of vaccination shall be adopted by community college or local health authorities.

76406. (a) Except as provided in subdivision (h), no person shall be initially employed by a community college district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an X-ray of the lungs, or an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) Thereafter all employees shall be required to undergo the foregoing examination at least once each four years or more often if

directed by the governing board upon recommendation of the local health officer.

(c) After such examination, each employee shall cause to be on file with the district superintendent a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of education may require, by rule, that all such certificates be filed in the office of the county superintendent of schools or shall require such files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within such county so petition the county board of education, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate" as used herein means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board from establishing a rule requiring a more extensive physical examination than required by this section but such rule shall provide for reimbursement on the same basis as hereinafter required.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse such person in a like manner hereinafter prescribed for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for such examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with students.

The governing board may, however, require such examination and may as a contract condition require the examination of persons employed for construction or repair work if the board believes the presence of such persons in and around school premises would constitute a health hazard to students.

(g) If the governing board of a community college district determines by resolution, after hearing, that the health of students in the district would not be jeopardized thereby, the provisions of this section shall not apply to any employee of the district who files an affidavit stating that he adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in

accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his knowledge and belief he is free from active tuberculosis. If at any time there should be probable cause to believe that such affiant is afflicted with active tuberculosis, he may be excluded from service until the governing board of the employing district is satisfied that he is not so afflicted.

(h) A person who transfers his employment from one campus or community college district to another shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

A person who transfers his employment from a private or parochial elementary school, secondary school, or nursery school to the community college district subject to this section shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

76407. Notwithstanding any provision of any law, no community college district, officer of any community college district, college president or superintendent, physician, or hospital treating any minor enrolled in any school in any district shall be held liable for the reasonable treatment of a minor without the consent of a parent or guardian of the child when the minor is ill or injured during regular schools hours, requires reasonable medical treatment, and the parent or guardian cannot be reached, unless the parent or guardian has previously filed with the district a written objection to any medical treatment other than first aid.

76408. For the protection of a student's health and welfare, the governing board of a community college district may require the parent or legal guardian of a minor to keep current at the minor's school of attendance, emergency information including the home address and telephone number, business address and telephone number of the parents or guardian, and the name, address and telephone number of a relative or friend who is authorized to care for the student in any emergency situation if the parent or legal guardian cannot be reached.

## Article 2. Employment of Medical Personnel

76420. The governing board of any community college district may appoint a supervisor of health, or supervisors of health, consisting of a physician, psychologist, psychiatrist, nurse, oculist, dentist, optometrist, otologist, podiatrist, audiologist, dental

hygienist, or any one or more of such persons. In case of the appointment of more than one supervisor of health the supervisors may, in the discretion of the board, all be chosen from any one of the classes designated.

The board may also appoint such number of school audiometrists, physical therapists, and occupational therapists as it may deem necessary to work under the direction of the supervisor of health and may provide for the compensation of such employees. No money set aside for the payment of instructors' salaries or for library purposes shall be used for this purpose.

76421. The governing boards of two or more community college districts in the same county may join in the employment of a supervisor of health, or supervisors of health, and may use funds not set aside for the payment of teachers' salaries or for library purposes for the expenses of the work. The boards may employ a nurse or nurses under the direction of a supervisor of health to examine the schools under their jurisdiction.

76422. No physician, psychiatrist, oculist, dentist, dental hygienist, optometrist, otologist, podiatrist, audiologist, or nurse not employed in such capacity by the State Department of Public Health, shall be, nor shall any other person be, employed or permitted to supervise the health and physical development of students unless he holds a services credential with a specialization in health or a valid credential issued prior to November 27, 1970.

Any psychologist employed pursuant to Sections 76420 to 76425, inclusive, shall hold a school psychologist credential, a general pupil personnel services credential authorizing service as a school psychologist, a standard designated services credential with a specialization in pupil personnel services authorizing service as a psychologist, or services credential issued by the board of governors or Commission for Teacher Preparation and Licensing.

The services credential with a specialization in health authorizing service as a school nurse shall not authorize teaching services unless the individual holds a baccalaureate degree, or its equivalent, and has completed a fifth year of preparation.

No physician employed by a district to perform medical services pursuant to Section 87440, shall be required to hold a credential issued by the board of governors or commission, provided he meets the requirements of Section 87440.

76423. Notwithstanding the provisions of Section 76422 any student who is required to take, during the regular schoolday, medication prescribed for him by a physician, may be assisted by the school nurse or other designated school personnel if the district receives (1) a written statement from such physician detailing the method, amount, and time schedules by which such medication is to be taken and (2) if the student is a minor, a written statement from the parent or guardian of the minor indicating the desire that the district assist the minor in the matters set forth in the physician's statement.

76424. A school psychologist is a credentialed professional whose primary objective is the application of scientific principles of learning and behavior to ameliorate school-related problems and to facilitate the learning and development of children in the public schools of California.

To accomplish this objective the school psychologist provides services to children, teachers, parents, community agencies, and the school system itself. These services include:

(a) Consultation with school administrators concerning appropriate learning objectives for children, planning of developmental and remedial programs for students in regular and special school programs, and the development of educational experimentation and evaluation.

(b) Consultation with instructors in the development and implementation of classroom methods and procedures designed to facilitate student learning and to overcome learning and behavior disorders.

(c) Consultation with parents to assist in understanding the learning and adjustment processes of minors.

(d) Consultation with community agencies, such as probation departments, mental health clinics, and welfare departments, concerning students who are being served by such community agencies.

(e) Consultation and supervision of student personnel services workers.

(f) Psychoeducational assessment and diagnosis of specific learning and behavioral disabilities, including, but not limited to, case study evaluation, recommendations for remediation or placement, and periodic reevaluation of such students.

(g) Psychological counseling of and other therapeutic techniques with minors and parents, including parent education.

76425. Notwithstanding the provisions of Section 76424, a licensed physician need not hold a credential if his sole service for a community college district or county superintendent of schools is service as a member of a committee whose function is to consider written and oral information and reports concerning the student that are available to the committee and, upon the basis of such information and reports, to recommend the admission of the student to, or his discharge from, special schools and classes for exceptional students.

### Article 3. Mental Health

76440. Upon the report of the president of a college that a student shows evidence of impaired mental health and that a mental examination is desirable, the governing board of the community college district may, with the written consent of the student's parent or guardian if the student is a minor, provide for the mental examination of said student.

The president shall not be liable for damages or for any civil or criminal penalty for any report made in good faith in carrying out the provisions of this section.

76441. The governing board of any community college district shall make such rules for the mental examination, as provided in Section 76440, of the students in the schools under its jurisdiction as will insure proper care of the students and proper secrecy in connection with any condition of impaired mental health noted by the supervisor of health or his assistant and as may tend to the correction of such condition, and any such governing board may consult and cooperate with the Department of Mental Hygiene in formulating such rules. The Department of Mental Hygiene shall cooperate to the full extent of its capacities in aiding and assisting school districts in carrying out the duties imposed by this article.

76442. When evidence of impaired mental health has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the minor, asking the parent or guardian to take such action as will cure or correct the condition. Such report must be made on a form prescribed or approved by the board of governors and shall not include therein any recommendation suggesting or directing the student to a designated individual or class of practitioner for the purpose of curing or correcting any condition referred to in the report.

The provisions of this section do not prevent a supervisor of health from recommending in a written report that the minor be taken to a public clinic or diagnostic and treatment center operated by a public hospital or by the state, county, or city department of public health.

76443. Notwithstanding the provisions of any law authorizing or requiring an officer or employee with duties connected with the public schools to provide for or arrange for, or otherwise engage in any activity directed to providing for, the psychological or psychiatric treatment, or both, of a minor student enrolled in a public school, no officer or employee of a community college district shall place, or participate in placing, a student enrolled in a public school in any public or private agency, institution, or place, outside of the minor's school of attendance, for psychological treatment or psychiatric treatment, or both, unless the prior written consent of the parent or guardian to such placement and treatment is first obtained.

This section does not authorize any officer or employee to administer psychological or psychiatric treatment to a minor either within the school of the minor's attendance or at a place outside of such school without the written consent of the parent or guardian.

76444. The governing board of any community college district may enter into a contract with a mental health clinic or child guidance clinic for the furnishing to the district by the clinic of mental health services for the students of the district. The use of the words "mental health" and "mental health services" in this section does not express or imply legislative intent with regard to other

health services. The terms and conditions governing the providing of such services shall be set forth in the contract. No payment shall be made by the district for services performed by persons who do not possess a credential issued by the board of governors or Commission for Teacher Preparation and Licensing covering such service, except as provided in Sections 87438 to 87446, inclusive. When the conditions of the contract have been fulfilled, the cost of services rendered pursuant to such contract may be paid from the funds of the district. The governing board of any city, county, or district which maintains a public mental health clinic or child guidance clinic or nonprofit health clinic is authorized to enter such an agreement.

#### Article 4. Physical Examinations

76450. The governing board of any community college district shall make such rules for the examination of the students in the public schools under its jurisdiction as will insure proper care of the students and proper secrecy in connection with any defect noted by the supervisor of health or his assistant and may tend to the correction of the physical defect.

76451. A parent or guardian having control or charge of any minor enrolled in the community college may file annually with the president of the college in which he is enrolled a statement in writing, signed by the parent or guardian, stating that he will not consent to a physical examination of his child. Thereupon the minor shall be exempt from any physical examination, but whenever there is a good reason to believe that the minor is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the college authorities are satisfied that any contagious or infectious disease does not exist.

76453. A physician, dentist, or optometrist who holds a valid, unrevoked certificate to practice his profession in this state, may with the approval of the governing board of the community college district perform, within the scope of their license, health examinations of minors upon school premises with the consent of a parent or guardian, and report findings and recommendations of health needs to the school health officer and parent or guardian.

Such persons conducting health examinations need not be employees of the district and shall be exempt from credential requirements as specified in Section 76422.

This section is applicable only to a school district with an average daily attendance in excess of 400,000.

76454. A person employed by a community college district in a position requiring certification qualifications who holds a valid special credential authorizing the teaching of lipreading or the teaching of the deaf and hard of hearing or a standard teaching credential with specialized preparation in the area of the deaf and hard of hearing or in the area of the speech and hearing handicapped or who holds a certificate of registration to serve as a school

audiometrist issued by the State Board of Public Health may, subject to Section 76451 test the hearing of pupils of the district through the use of an audiometer for the purpose of detecting students with impaired hearing.

76455. (a) When a defect other than a visual defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the minor asking the parent or guardian to take such action as will cure or correct the defect. Such report, if made in writing, must be made on a form prescribed or approved by the board of governors and shall not include therein any recommendation suggesting or directing the student to a designated individual for the purpose of curing or correcting any defect referred to in the report.

(b) When a visual defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the minor, asking the parent or guardian to take such action as will correct the defect. Such report, if made in writing, must be made on a form prescribed or approved by the board of governors and shall not include therein any recommendation suggesting or directing the student to a designated individual or class of practitioner for the purpose of correcting any defect referred to in the report.

(c) The provisions of this section do not prevent a supervisor of health from recommending in a written report that the minor be taken to a public clinic or diagnostic and treatment center operated by a public hospital or by the state, county, or city department of public health.

76456. The supervisor of health shall make such reports from time to time as he deems best to the governing board of the community college district, or as the board may call for, showing the number of defective minors in the schools of the district and the effort made to correct the defects.

## Article 5. Medical Service and Insurance

76470. The governing board of any community college district or districts may provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurers, for students of the district injured while participating in athletic activities under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any school of the district. The cost of the insurance or membership may be paid, from the funds of the district, or by the insured student or his parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only such companies or corporations as are authorized to do business in this state.

76471. The governing board of any community college district or districts which does not employ at least five physicians as full-time supervisors of health, or the equivalent thereof, may provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance or through policies of liability insurance from authorized insurers, for injuries to students of the district or districts arising out of accidents occurring while in or on buildings and other premises of the district or districts during the time such pupils are required to be therein or thereon by reason of their attendance upon a regular day school of such district or districts or while being transported by the district or districts to and from school or other place of instruction, or while at any other place as an incident to school-sponsored activities and while being transported to, from and between such places. No student shall be compelled to accept such service without his consent, or if a minor without the consent of his parent or guardian. The cost of the insurance or membership may be paid, from the funds of the district or districts, or by the insured student, his parent or guardian.

Such insurance may be purchased from, or such membership may be taken in, only such companies or corporations as are authorized to do business in California.

76472. To facilitate the authority referred to in Sections 76470 and 76471 the governing board of the community college district or districts may authorize the distribution by district personnel of such printed matter as may be furnished by the insurer or membership corporation.

76473. The governing board of community college district or districts may provide, or make available, ambulance service, paid for out of district funds, for students, instructors, spectators, and other individuals in attendance at athletic activities under the jurisdiction of, or sponsored or controlled by, the district or districts or the authorities of any school of the district or districts.

#### Article 6. School Meals for Students

76480. The governing board of any community college district may provide, without charge or at a reduced price, breakfasts for students within the district who are needy. The governing board may provide, without charge or at a reduced price, lunches for students who are needy. The governing board of any community college district may provide, without charge, lunches for any or all other students whether they are needy or not, provided that the governing board has so provided such lunches without charge to all students of the district during the 1962-1963 school year. The governing board of any district may provide, without charge or at a reduced price, other nutrition periods during the schoolday during which foods or beverages, or both, are served to students.

For purposes of this article a student who is "needy" is one who does not otherwise receive proper nourishment.

As used in this article "school meals" includes breakfasts, lunches, or the serving of foods or beverages, or both, during other nutrition periods, or any combination thereof.

76481. The governing board of any community college district may, for purposes of Section 76480, establish rules by which to determine which students are needy. For purposes of this article, any student within the category of minors eligible for aid or services under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code shall be deemed needy.

76482. (a) For the purpose of providing funds with which to obtain school meals for needy students and to provide facilities and equipment for providing school meals to needy students, the governing board of any community college district may levy and collect a district tax over and above the maximum elsewhere specified in this code but not to exceed five cents (\$.05). Not more than 6 percent of such funds may be used for the administrative and clerical costs of conducting such a program.

76483. District funds may also be used for the purchase of school meals for students, as provided in Section 76480.

76484. Each official and department of the state having charge of the administering of funds for the relief of indigents may contribute and pay any of the funds subject to his disposal to any community college district within the state, to be used by the district for the purchase of school meals for needy students. Every county, city and county, and city within the state may pay any of its funds available for the relief of indigents to any community college district, within or partly within the county, city and county, and city for this purpose.

#### Article 7. Notice to School of Nonepisodic Condition

76490. The parent or legal guardian of any minor student on a continuing medication regimen for a nonepisodic condition, shall inform the school nurse or other designated certificated school employee of the medication being taken, the current dosage, and the name of the supervising physician. With the consent of the parent or legal guardian of the student, the school nurse may communicate with the physician and may counsel with the community college personnel regarding the possible effects of the drug on the student's physical, intellectual, and social behavior, as well as possible behavioral signs and symptoms of adverse side effects, omission, or overdose. The superintendent of each community college district shall be responsible for informing parents of all minors of the requirements of this section.

PART 48. COMMUNITY COLLEGES, EDUCATION  
PROGRAMS

CHAPTER 1. EDUCATION PROGRAMS

Article 1. General Provisions

78000. Each community college shall provide for the education of students in the 13th and 14th grades and for the education of such adults and minors as may properly be admitted but who are not classifiable by grade.

Persons 21 years of age or over enrolled in less than 10 class hours as defined in Section 78460 in classes of any kind whatsoever maintained in connection with a community college, except classes maintained in English and citizenship for foreigners, classes in elementary subjects, and classes which are required in order that the participant may qualify for a high school diploma, where no charge of any kind shall be made, may be required by the governing board of the district maintaining the class to pay a tuition for such classes. The total of the tuition required and the apportionments from the State School Fund on account of the attendance in the classes shall not exceed the estimated cost of all such classes maintained.

78001. The governing board of a community college district may contract with the Trustees of the California State University and Colleges for the maintenance of a community college in a state university or college situated in the district. Any contract executed pursuant to this section shall include among its provisions a requirement that all expenditures incurred for community college maintenance shall be payable only on order of the governing board as all other expenditures of the district are payable, and an additional provision that the president of the state university or college shall serve as president of the community college and in that capacity shall be responsible to the governing board through the superintendent of schools of the district if there is one. Otherwise he shall be responsible directly to the governing board.

78002. The Chancellor of the California Community Colleges may designate one community college district to provide, on a pilot basis for three years, the maintenance of community college classes for credit on Sunday. Attendance at classes conducted on Sunday shall be at the election of the student. Attendance in classes conducted on Sunday shall be counted for purposes of computing average daily attendance. The district shall report to the chancellor's office at the end of each fiscal year the number of separate courses conducted on Sunday, and the number of students enrolled.

Any class which is required for attainment of an associate of arts degree or a certificate, which is offered on Sunday, shall also be offered during the regular Monday-through-Friday school week.

In the district designated to provide community college classes for credit on Sunday, no full-time contract or regular certificated

employee shall, without his or her written consent, be required to perform his or her duties on Sunday, or for more than five days per workweek.

No classified school employee currently employed by such district shall, without his or her written consent, be required to change his or her workweek to include Sunday. Enactment of this section shall not be construed to require or cause any change or disruption in the present workweek of any classified employee, as defined in Section 88026, without written consent of such employee.

Enactment of this section shall not be construed as limiting the powers of any governing board of any community college district to govern the colleges of the district, including the assignment of certificated or classified personnel employed by such district.

The Board of Governors of the California Community Colleges shall evaluate the pilot program, if one is established, and the feasibility of maintaining such classes on a statewide basis and shall report its findings and recommendations to the Legislature on or before September 1, 1978.

This section shall remain in effect until July 1, 1978, and as of that date is repealed.

**78003.** The governing board of any community college district in which is located a high school district required to maintain only one or more junior high schools, may establish and maintain special continuation education classes and, in such case, the governing board of the high school district shall not be required to establish and maintain any such classes under any other provisions of this code.

Special continuation education classes established and maintained under this section shall be deemed to be established and maintained by the governing board of the high school district for all the purposes of Sections 48431 to 48436, inclusive, Sections 48400 to 48415, inclusive, and Sections 48450 to 48454 inclusive.

**78004.** The governing board of a community college district may conduct community college classes and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the school district if all of the following conditions exist:

(a) The proposed location is within the state.

(b) The activities, trades, businesses, or work to be carried on at the proposed location is such as to offer educational opportunities to students who are residents of the district in the subject or all of the subjects proposed to be taught at that location, and facilities for such instruction are not available either at the location of the principal buildings of the community college, or elsewhere within the district.

**78005.** The governing board of a community college district may establish courses outside the district primarily for students who are nonresidents of the district, providing the following conditions are fulfilled:

(a) The governing board of a high school district, not a part of the community college district, with the approval of the county board of education of the county having jurisdiction over the high school

district, requests that community college classes be offered in the high school district.

(b) The district community college requests and receives annually the prior written approval of the board of governors before establishing or continuing such classes outside its district.

78006. The governing board of a community college district may conduct community college classes for students who are residents of the district and utilize existing facilities necessary therefor outside of the boundaries of the district if the district is unable to construct adequate facilities within the district because of the failure of the electors of the district to authorize the issuance of bonds for such purpose at an election held for such purpose and if the district is unable to obtain adequate facilities within the district with the funds available to the district for such purpose.

78007. The governing board of a community college district may enter into a contract on a full-cost basis with the federal government or any agency of the federal government to provide community college courses and classes to persons in the military service of the United States at any military camp, post, installation, base, vessel, or location, whether within or outside the district or the state.

78008. The governing board of a community college district may maintain a summer school at any of its community colleges during the period between the close of one academic year and the beginning of the succeeding academic year in accordance with rules and regulations of the board of governors and with the prior written approval of the board of governors.

The term "academic year" as used in this section means that portion of the school year during which the regular day community college is maintained, which period must include not less than the number of days of teaching required to entitle the district to apportionments of state funds.

78009. The president of any two-year community college may admit 11th- and 12th-grade students to vocational education classes maintained for such students who may profit from the instruction and are recommended by the high school principal, provided:

(a) The high school students are enrolled in a high school within the community college district.

(b) A contract is entered into between the governing board of the district maintaining the high school and the community college district for the payment of the current expense to the community college district incurred on account of such attendance.

(c) Notwithstanding the provisions of Section 84500, the hours of attendance of such students is credited to the high school district of enrollment but in no case shall the credited hours of attendance of a student in both attendance centers exceed one day of attendance on any one calendar day.

(d) Scholastic credit for courses completed is at the high school level.

For the purposes of this section, such vocational education classes

may be considered to be classes maintained by the high school within the boundaries of the district maintaining the high school.

78010. Notwithstanding any provision in this code to the contrary, the governing board of any school district maintaining a high school and the governing board of a community college district may enter into a contract, subject to the approval of the Superintendent of Public Instruction, and the board of governors for the education of community college students in vocational education classes to be conducted for such students by the district maintaining the high school. The average daily attendance of community college students enrolled in such classes, under the provisions of this section, shall be credited to the community college district and college credit may be granted students who satisfactorily complete the course of instruction in such classes.

78011. Notwithstanding any provision of this code to the contrary, in any county with population of 75,000 or less, the county superintendent of schools and the governing board of a community college district, in such counties, may enter into a contract, subject to the approval of the Superintendent of Public Instruction and the board of governors for the education of community college students in vocational educational classes to be conducted for such students in the regional occupational program operated by the county superintendent of schools. The average daily attendance of community college students enrolled in such classes under the provisions of this section shall be credited to the regional occupational program at the level for all other students in the regional occupational program and community college credit may be granted students who satisfactorily complete the course of instruction in such classes.

78012. Notwithstanding any provision in this code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury, in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this section shall be approved of and supervised by the governing board of the community college school district and shall be conducted by credentialed instructors. The average daily attendance of such community college students attending classes, under the provisions of this section, shall be credited to the community college district and college credit may be granted students who satisfactorily complete the course of instruction in such classes.

78013. No diploma, certificate or other document which is conferred upon a student as evidence of his completion of a prescribed course of study or training shall bear any distinctive

marking or words which indicate that the student upon whom it was conferred was, for purposes of his course of study or training, placed within a particular classification based upon his intellectual or mental capacity.

The provisions of this section shall not be construed to prevent a diploma, certificate or other document from indicating that the student upon whom it is conferred maintained exceptionally high grades during his course of study or training, or that he completed his course with honors, or to prevent the governing board of any community college district from publicizing such information.

## Article 2. Interdistrict Attendance

78030. (a) Subject to the provisions of Sections 76000 to 76003, inclusive, a district resident, as defined for purposes of Part 41 (commencing with Section 68000) of Division 5 of this title, shall be admitted to a community college in another district unless such admission would be contrary to the terms of an interdistrict attendance agreement or a notice of restriction.

(b) A district resident may be entitled to enroll and may be admitted to a community college in another district; provided, that the governing board of the receiving community college district has approved such admission and has determined that space is available at that community college. The admission of such person shall not be subject to an interdistrict attendance agreement or a notice of restriction, if the student pays on behalf of the district in which he resides the tuition computed under Section 78031 on account of such attendance. In the absence of an interdistrict attendance agreement and subject to the provisions of subdivision (c) of Section 78031, the tuition shall be computed as specified in Section 2100, including the specified charge of three hundred dollars (\$300) per unit of average daily attendance for the use of buildings and equipment.

(c) Attendance of such students shall be separately recorded and reported to the Chancellor's Office of the California Community Colleges.

(d) Basic aid shall be apportioned to the district of attendance, and the district of attendance shall not include the attendance of such students in the determination of the district's revenue limit pursuant to Section 85132.

(e) The governing board of each community college district shall prescribe rules and regulations for the implementation of this section.

78031. (a) An interdistrict attendance agreement may be entered into between two districts specifying the terms and conditions under which district residents of one district may attend a community college in the other district. The agreement may be for any period agreed upon but for not less than one year.

(b) Tuition charges including charges for use of buildings and equipment may be specified as part of the terms and conditions of

an interdistrict attendance agreement. Such charges shall be not less than the apportionments provided by the state to the district of attendance because of attendance of students under the agreement nor shall such charges be more than would be computed as specified in Section 2100.

(c) If either district is within the first three years of its existence and has not acquired facilities from a preceding district, the three hundred dollars (\$300) charge for use of buildings and equipment specified in Section 2100 shall not be charged to either district.

78032. A district may restrict admission of its residents in a community college of another district or it may restrict admission of residents of another district into its community college or colleges by means of a notice of restriction. The notice of restriction shall be sent to the district to which it applies, to the county superintendent of each county containing all or part of both districts, and shall be published in the catalog of the district issuing the notice and of the district to which the notice applies. A notice of restriction shall be effective with the school session immediately following the next succeeding April 1 after receipt of the notice by the district to which it is directed. It shall continue in effect until withdrawn. A district receiving a notice of restriction shall not permit attendance contrary to the notice.

78033. If within 30 days after having requested permission to enroll in a community college of another district, a resident student is not permitted to attend because of the terms of an interdistrict attendance agreement or a notice of restriction, an appeal may be made to the county board of education in the county of the student's residence. The appeal may be made by the student, his parent, or his guardian.

Within 30 days after the filing of the appeal the county board of education or its delegated representative shall grant or deny the appeal.

If the appeal is granted and attendance is allowed, the district of residence shall pay tuition to the district of attendance in accordance with an interdistrict attendance agreement which is in effect between the districts. In the absence of an interdistrict attendance agreement and subject to the provisions of subdivision (c) of Section 78031 the rate of tuition shall be computed as specified in Section 2100 including the specified three hundred dollars (\$300) charge per unit of average daily attendance for use of buildings and equipment.

78034. The governing board of any community college district shall admit to a community college maintained by it any nondistrict resident, as defined in Section 68020, who meets the requirements of Sections 76000 to 76003, inclusive.

### Article 3. Accreditation

78050. The governing board of a community college district may pay the costs of accreditation of the community colleges within the

district by the regional accrediting association serving California.

(a) On each accrediting commission for community colleges, there shall be a representative of the chancellor's office appointed by the chancellor.

(b) On each visiting team assigned by the accrediting association to review the program and facilities of a California community college, there shall be a representative of the chancellor's office appointed by the chancellor, except when illness or other emergency prevents such representative from serving and there is not sufficient time for the chancellor to appoint a replacement.

78051. The provisions of Section 78050 do not prohibit the governing board of a community college district from paying the costs for accreditation by other accrediting agencies recognized by the United States Department of Health, Education, and Welfare, Office of Education.

## CHAPTER 2. COURSES OF STUDY

### Article 1. Courses of Study

78200. Courses of instruction and educational programs shall be prepared under the direction of the governing board of each community college district. Such educational programs shall be submitted to the board of governors for approval. Courses of instruction which are not offered in approved educational programs shall be submitted to the board of governors for approval. The district governing board shall establish policies for, and approve, individual courses which are offered in approved educational programs without referral to the board of governors.

The board of governors shall review, and may approve, all educational programs and all courses which are required by this section to be submitted to it for approval.

For the purposes of this section, "course of instruction" means an instructional unit of an area or field of organized knowledge, usually provided on a quarter, semester, year, or prescribed length-of-time basis.

For the purposes of this section, "educational program" is an organized sequence of courses leading to a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

The provisions of this section apply to classes for adults as well as regular classes of community colleges.

78201. The course of study for two-year community colleges shall be designed to fit the needs of students of the 13th and 14th grades and may include courses of instruction designed to prepare for admission to the upper division of higher institutions of learning and such other courses of instruction designed to prepare persons for agricultural, commercial, homemaking, industrial and other vocations, and such courses of instruction as may be deemed

necessary to provide for the civic and liberal education of the citizens of the community.

78202. The courses of instruction in social sciences shall include a study of the role, participation, and contribution of black Americans, American Indians, Mexicans, persons of oriental extraction, and other ethnic groups to the economic, political, and social development of California and the United States of America.

78203. No state funds shall be apportioned to a community college district on account of the attendance of students enrolled in a community college course unless the course was offered in an educational program, as defined by Section 78200, approved by the board of governors or the course itself was approved by the board of governors.

In any other law having an effect, in relation to community colleges, similar to that of this section, "courses" shall be interpreted in a manner consistent with the provisions of this section.

78204. The governing board of each community college district shall prescribe requirements for graduation from community college courses.

78205. The minimum requirement for graduation from a two-year community college course of study shall be at least 60 credit hours of work.

78206. One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

78207. To the extent of and subject to such requirements as the Board of Governors of the California Community Colleges may, by regulation prescribe, the governing board of a community college district may grant credit to any student based on examinations approved and conducted by proper authorities of the college.

78208. The governing board of each community college district may offer a course of study leading to an associate in arts degree in bilingual, bicultural teacher assisting. The curriculum may include courses of study in bilingual, bicultural education and practicum in bilingual, bicultural teacher assisting.

## Article 2. Correspondence Instruction

78220. The governing board of a community college may, subject to such rules and regulations as may be prescribed by the board of governors and upon the authorization of the board of governors provide students enrolled in the regular day schools of the district with instruction by correspondence provided by the University of California, or other university or college in California accredited for teacher training under this code, in subjects included within or related to the course of study offered in the school and which for good reason cannot be taken by the student, and pay the cost thereof.

Such instruction when provided for a student must be a part of the program of study approved for such student.

78221. Notwithstanding anything in Section 78220 to the contrary, the governing board of any community college district may, subject to such rules and regulations as may be prescribed by the board of governors and upon the authorization of the board of governors, provide veterans enrolled in schools or classes of the district with instruction by correspondence, provided by any university or college referred to in Section 78220 or by any other university, college, school, institution or organization approved by the board of governors in subjects which may be necessary to adjust the veteran to an occupation and which, for good reason, cannot be given by the school, and pay for the cost thereof.

### Article 3. Military Science

78230. The governing board of any community college district may establish in the community college courses in military science and tactics complying with the laws of the United States made and provided with reference to Reserve Officers Training Corps units in educational institutions.

No student enrolled in any such community college shall be required to enroll in any course in military science and tactics.

### Article 4. Work-Experience Education

78240. The governing board of any community college district may:

(a) Provide for the instruction of students in the skills, attitudes, and understandings necessary to success in employment by means of courses of work-experience education as provided in this article.

(b) Provide for guidance and supervision procedures designed to insure maximum educational benefit to students from placement in suitable work-experience education courses.

(c) Provide for arranging, approving, coordinating, and awarding credit for work-experience education courses, and for those purposes employ instructors, coordinators, and other necessary personnel.

(d) Provide for the district to purchase liability insurance for students enrolled in programs of study involving work-experience or vocational education at locations off school grounds approved by the governing board, or require students to purchase insurance and to pass on all or a portion of the costs, at the discretion of the governing board, to the district.

78241. Board of governors shall establish standards for work-experience education, including but not limited to, the following:

- (a) Selection and approval of work stations.
- (b) Supervision of students.
- (c) Credit allowable for work experiences.

(d) Guidance procedures related to work-experience education.

78242. The board of governors shall adopt such rules and regulations as are necessary to maintain the educational purpose and character of work-experience education.

78243. All laws or rules applicable to minors in employment relationships are applicable to students enrolled in work-experience education courses.

78244. Work-experience education as authorized by this article includes the employment of students in part-time jobs selected or approved as having educational value for the students employed therein and coordinated by school employees.

78245. The governing board of any community college district which establishes and supervises a work-experience education program in which mentally retarded students are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of students so employed.

The Legislature hereby finds and declares that the authority granted by the provisions of this section is necessary to ensure that the work-experience education program will continue to provide maximum educational benefit to students, particularly mentally retarded students and that such program is deemed to serve a public purpose.

78246. Work-experience education involving apprenticeable occupations shall be consistent with the purposes of Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code and with standards established by the California Apprenticeship Council.

78247. The governing board of any community college district may provide for the establishment and supervision of work-experience education programs in contiguous areas outside the district.

78248. The governing board of any community college district providing work-experience and work-study education may provide for employment under such program of students in part-time jobs located in areas outside the district and such employment may be by any public or private employer. Such districts may pay wages to persons receiving such training whether assigned within or without the district, except that no payments may be to or for private employers, and may provide workers' compensation insurance as may be necessary.

78249. Notwithstanding any provisions of this code or the Labor Code to the contrary, the community college district under whose supervision work-experience education, or occupational training classes held in the community, as defined by regulations adopted by the board of governors, are provided shall be considered the employer under Division 4 (commencing with Section 3201) of the Labor Code of persons receiving such training unless such persons during such training are being paid a cash wage or salary by a private employer, or unless the person or firm under whom such persons are

receiving work-experience or occupational training elects to provide workers' compensation insurance. Whenever such work-experience education, or occupational training classes held in the community, are under the supervision of a regional occupational center or program operated by two or more community college districts pursuant to Section 52301, the district of residence of the persons receiving such training shall be deemed the employer for the purposes of this section.

78250. Sections 1292, 1293, and 1294 of the Labor Code shall not apply to work-experience education programs established pursuant to this article; provided that the work-experience coordinator determines that the students have been sufficiently trained in the employment or work otherwise prohibited, if parental approval is obtained, and the principal or the counselor of the student has determined that the progress of the student toward graduation will not be impaired.

#### Article 5. Aviation

78270. The board of governors shall aid and assist local school districts in the development and conduct of a program of aviation education. The Department of Aeronautics may aid and assist in the selection of airports and pilots used by the local school districts in flight indoctrination and instruction.

78271. The Department of Aeronautics is authorized to make available to community colleges offering actual flight experience as part of the regular curriculum a basic insurance program and to assure that adequate supervision and precautionary measures are taken by the flight school operators contracted to provide services for community college students. The governing board of any community college district offering actual flight experience as part of the regular curriculum may participate in the basic insurance program provided by the commission and pay from the funds of the district a pro rata share of the cost of the insurance program.

78272. The governing board of a community college district may establish and maintain community college classes outside of the state, comprising a part of an aircraft pilot training program conducted by the district under an agreement with the federal government or any agency thereof, during the time that it is unlawful by reason of any law or order of the federal government or any agency thereof for such classes to be maintained within the district.

The governing board may make such expenditures and do such things in connection with the establishment and maintenance of classes under this section as it could do were the classes established and maintained within the district.

78273. The governing boards of community college districts are urged to design courses including air transportation, vocational education, career opportunities in civil and military aviation, technical training, flight experience, and ground instruction in

localities where the needs of the youth in these communities warrant such a course in these schools.

#### Article 6. School Farms

78280. The governing board of any community college district may, for the purpose of providing practical instruction in agriculture, establish one or more school farms for any one or more of the schools of the district whenever in its judgment it is advisable to do so.

78281. The cost of purchasing and equipping a school farm and all other costs not met from the receipts of the operation of the farm shall be a charge against the funds of the district.

78282. The governing board of the district may provide for the general supervision of the farm and the cost of the supervision may be a charge against the funds of the district.

78283. All moneys received from the sale of produce, livestock and other products of a farm shall be paid into the county treasury to the credit of the general fund of the district.

78284. The governing board of the community college district may, as an alternative to the procedure provided for in Section 78283, establish an account for each such farm established in the district, or for all such farms established by the district, in one or more banks to be known as "The School Farm Account" of (insert name of district) District. If the account is established for one of several farms, it shall be known as "The School Farm Account of (insert name of school) School of (insert name of district) District." All receipts of the school farm, or farms, derived from the sale of produce, livestock, and other products, may be withdrawn from the general fund in the same manner as other moneys may be withdrawn from funds of the district and deposited in the account for expenditure for the operation and maintenance of the farm, or farms, in accordance with the direction of the governing board.

78285. The governing board may designate an employee or employees of the district to have custody of the account or accounts established under Section 78284, who shall be responsible for the payment into the account or accounts of all moneys received for or to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board may prescribe.

78286. The governing board may buy feed, livestock, and materials and supplies for a farm and may sell produce, livestock and other products of a farm in accordance with rules and regulations adopted by the board notwithstanding any provision of this code in conflict with such rules and regulations.

#### Article 7. Community Service Classes

78300. The governing board of any community college district is authorized without the approval of the board of governors to

establish and maintain community service classes in civic, vocational, literacy, health, homemaking, technical and general education, including but not limited to classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics. Such classes shall be designed to provide instruction and to contribute to the physical, mental, moral, economic, or civic development of the individuals or groups enrolled therein.

78301. Community service classes shall be open for the admission of adults and of such minors as in the judgment of the governing board may profit therefrom.

78302. Community service classes may be convened at such hours and for such length of time during the day or evening and at such period and for such length of time during the school year as may be determined by the governing board of the district.

78303. Governing boards shall have the authority to provide for granting appropriate certificates or other recognition of skill or accomplishment in such classes.

78304. Attendance or average daily attendance in community service classes pursuant to this article shall not be reported to the board of governors for apportionment. No apportionment from state funds shall be made to establish or maintain such classes.

78305. Governing boards may expend from the general fund of the district any money which is budgeted for community services to establish and maintain community service classes and may charge student fees not to exceed the cost of maintaining such classes or may provide instruction in such classes for remuneration by contract, or with contributions or donations of individuals or groups.

#### Article 8. Instructional Television

78310. The county superintendent of schools may contract on behalf of any community college district under his jurisdiction subject to the approval of the board of governors, to procure television broadcasts or closed-circuit television programs for use in the educational program of the schools in such district.

78311. A community college district may provide for or contract for, subject to the approval of the board of governors, the procuring of television broadcasts or closed-circuit television programs for use in the educational program of the schools of the district.

### CHAPTER 3. ADULT SCHOOLS

#### Article 1. General Provisions

78400. For the purposes of this chapter, "adult" means a person 21 years of age and older, and "minor" means a person less than 21 years of age, notwithstanding the provisions of Section 25 of the Civil Code or any other provisions of law.

78401. The governing board of any community college district shall have power with the approval of the board of governors to establish and maintain classes for adults, except programs and classes in outdoor science education and conservation education as the term is employed in Section 8760, for the purpose of providing instruction in civic, vocational, literacy, health, homemaking, technical and general education.

78402. Classes for adults shall conform to any course of study and graduation requirements otherwise imposed by law or under the authority of law.

78403. Adult schools and evening schools shall consist of classes for adults. Such classes shall be open for the admission of adults and of such minors as in the judgment of the governing board may be qualified for admission thereto.

78404. Such classes may be convened at such hours and for such length of time during the day or evening and at such period and for such length of time during the school year as may be determined by the governing authority.

78405. The board of governors shall establish standards including standards of attendance, curriculum, administration, and guidance and counseling service for such classes as a basis for the several apportionments of state funds provided herein for the support of such classes.

78406. Governing boards shall have the authority to provide for granting appropriate credits, certificates, diplomas or other recognition of skill or accomplishment in such classes which such districts are otherwise authorized to grant.

78407. The governing board of any community college district maintaining an adult school shall prescribe the requirements for the granting of diplomas.

78409. Whenever the governing board of a community college district maintaining an adult school or classes for adults is unable to maintain the school or classes in the district because of its inability to secure a teacher or teachers, or because of lack of facilities, the board may, with the approval of the county superintendent of schools and the board of governors, maintain the school or classes of the district elsewhere than within the district or contract for instruction of the students in such school or classes with the governing board of another community college district.

78410. Classes for adults may be maintained in conjunction with day or evening community colleges, and day or evening adult schools.

78411. Community colleges maintained in any state institution for adults or in any city, county, or city and county jail, road camp or farm shall consist only of classes for adults.

78412. No state funds shall be apportioned to any community college district on account of the attendance of students enrolled in adult schools unless the courses have been approved by the board of governors. Approval of courses for grades 13 and 14 shall be given in

accordance with the provisions of Section 78200.

78413. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

78413. The governing board of any community college district maintaining an adult school shall have authority with the approval of the board of governors to establish a prescribed course in elementary subjects appropriate to needs of adults

## Article 2. Use of Hospitals

78430. The governing board of any community college district offering a nursing program, or related program in the healing arts, either in regular graded classes or in classes for adults, may maintain classes in such a program at hospitals located within or without the district for the purpose of providing the hospital training for students in such classes.

The governing board may purchase liability insurance for the students with district funds.

78431. Anything in this chapter to the contrary notwithstanding, whenever any county or city and county maintains a tuberculosis ward, hospital or sanatorium in another county of this state, the governing board of any community college district of the county or city and county maintaining such institution, if authorized to maintain classes for adults, may establish and maintain such classes in such institution for pretuberculous, tuberculous, and convalescent minors and adults, and the attendance of students in the classes shall be credited to the district maintaining the classes.

## Article 3. Education of Handicapped

78440. The governing board of any community college district or the county superintendent of schools, shall have the power, with the approval of the board of governors, to establish special classes for adults designed to serve the educational needs of handicapped adults. Such classes shall be directed to providing instruction in civic, vocational, literary, homemaking, technical, and general education.

Attendance of handicapped adults in such classes established by the county superintendent of schools shall be included for purposes of apportionments to the county school service fund.

78441. Special classes for handicapped adults may be conducted under the direction of the governing board of the community college district in workshop and training facilities provided by nonprofit organizations, or in public school facilities.

78442. The governing board of any community college district or the county superintendent of schools authorized by this article to establish special classes for adults designed to serve the educational needs of handicapped adults may contract for the providing of such classes by any adjacent high school district or unified school district, subject to the approval of the board of governors. For purposes of apportionments, the average daily attendance in classes conducted pursuant to the contract shall accrue to and be reported by the

district in which such student resides. Any contract entered into pursuant to this section shall be for a term of not to exceed one year but may be renewed or revised and renewed annually.

#### Article 4. Restrictions

78450. No class for adults shall be maintained by any community college district: (1) if the district receives compensation for such class from any public or private agency, individual or group of individuals, except fees authorized by Section 78462 and apportionments from the state and federal government; or (2) if such classes are not open to the general public; or (3) if the pupils attending such classes are paid for such attendance. The Board of Governors of the California Community Colleges may adopt such regulations as may be necessary to define "payment" and "payment for attendance" as used in this section.

No classes for adults shall be maintained by any district if the cost of such class is paid entirely from federal funds.

78451. No class for adults in dancing or recreational physical education shall be maintained by any community college district for which the district receives money from the State School Fund.

#### Article 5. Finances

78460. For the purpose of crediting attendance for apportionments from the State School Fund during the fiscal year, "adult" means any person who has attained his 21st birthday on or before (a) September 1st, January 1st, or March 1st of the quarter for which he is enrolled or (b) September 1st or February 1st of the semester for which he has enrolled, and who has enrolled in less than 10 class hours as defined in Section 84527 for community college districts.

Notwithstanding Section 25 of the Civil Code or any other provisions of law, "adults" for purposes of this chapter means persons 21 years of age or older.

78461. Apprentices enrolled in any classes maintained by community colleges pursuant to Section 3074 of the Labor Code shall be reported separately, and the high school foundation program for regular students shall be used in computing district apportionments.

78462. Except as specified in this section, an adult enrolled in a class for adults may be required by the governing board of the district maintaining the class to pay a tuition for such class. No charge of any kind shall be made for a class in English and citizenship for foreigners or a class in an elementary subject. No tuition charge shall be made for a class designated by the governing board as a class for which high school credit is granted when such class is taken by a person who does not hold a high school diploma. The total of the tuition required and the apportionments from the State School Fund for all attendance in the classes shall not exceed the estimated cost

of all such classes maintained.

78463. The governing board of a community college district conducting classes for adults may establish an account in a bank for each school of the district in which classes for adults are maintained. The account shall be known as "The Incidental Expense Account of (insert name of school) School of (insert name of district) District." The governing board may establish regulations providing for the collection of an incidental fee from each pupil enrolled in such classes for adults as the governing board may determine. The fee collected from each student shall not exceed fifty cents (\$0.50) in any school year. All fees shall be deposited in the account for that school and shall be expended only for (1) materials, services, or supplies for the operation of classes for adults in such school; and (2) activities of particular benefit to students in classes for adults in such school.

For the purposes of Sections 78462 to 78465, inclusive, classes for adults maintained in connection with a school shall be deemed to be maintained in such school.

78464. The governing board of the district shall designate an employee or employees of the district to have custody of the incidental expense account, or accounts, who shall be responsible for the payment into the account, or accounts, of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes.

78465. The regulations of the governing board may provide for the sale of materials purchased from the incidental expense account to students in classes for adults, for use in connection with such classes. The proceeds of all such sales shall be deposited in that account and shall be available for the purposes of that account.

## CHAPTER 4. EDUCATIONALLY HANDICAPPED STUDENTS

### Article 1. General Provisions

78600. As used in this chapter, "educationally handicapped students" are students under the age of 21 years who, by reason of marked learning or behavior disorders, or both, cannot benefit from the regular educational program, and who, as a result thereof, require the special education programs authorized by this chapter. Such learning or behavior disorders shall be associated with a neurological handicap or emotional disturbance and shall not be attributable to mental retardation.

78601. (a) The education of educationally handicapped students who are diagnosed as being autistic shall be provided all eligible pupils in the manner set forth in this chapter.

(b) The governing board of any community college district which has an average daily attendance of 8,000 or more shall provide for the education, in special education classes or programs, of autistic students residing in the community college district who are not in

attendance upon other special education classes or programs.

(c) The county superintendent of schools shall establish and maintain special education classes or programs for autistic students who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 8,001 in the elementary schools of the district, or who reside in the county and in a high school district which has an average daily attendance of less than 8,001. The classes and programs shall be established at centrally located places, and the county superintendent of schools shall provide transportation to the students attending them.

(d) The board of governors shall adopt rules and regulations which shall prescribe standards for special education programs for autistic students. Such rules and regulations shall ensure that no county has more than four autistic students enrolled in special education classes or program for autistic students per 10,000 average daily attendance. The board of governors may waive the number of autistic students allowed to be served within each county if he determines that such waiver is necessary to meet the exceptional needs of autistic students.

**78602.** The governing board of any community college district or a county superintendent of schools with the approval of the county board of education, maintaining schools in juvenile halls or juvenile homes, ranches, or camps as authorized by the Welfare and Institutions Code, may provide for any one or more of the special educational programs for educationally handicapped students authorized in this section.

Such special educational programs shall be provided in accordance with standards for each approved by the board of governors. Such standards shall emphasize fundamental school subjects with the aim of returning the students to the regular school program at the earliest possible date consistent with the interest of the student.

The special educational programs for educationally handicapped students are:

(a) Special classes. Under this program, educationally handicapped students unable to function in a regular class are assigned to a special class. In this program, fundamental school subjects shall be emphasized as prescribed by the board of governors.

(b) Learning disability groups. In this program, the student remains in his regular class but is scheduled for individual or small group instruction given by a special instructor. Whenever one to four educationally handicapped students are instructed at the same time by the same instructor in a learning disability group conducted by a community college district or county superintendent of schools, the total attendance credited for such students shall equal one unit of attendance for each 60 minutes of instruction.

(c) Specialized consultation to instructors, counselors, and supervisors. Under this program, specialized consultation is provided instructors, counselors, and supervisors relative to the learning disabilities of individual students and special education services

required by such students.

(d) Home and hospital instruction. Under this program, a student who is unable to function in a school setting and who does not attend school receives instruction at the appropriate level at home or in a hospital.

(e) Regular class instruction. Under this program, whenever the number of educationally handicapped students is less than six in each of one or more community colleges of a district and the distance between any school also having educationally handicapped students is excessive, prohibiting the reasonable transportation of students, such students may be instructed in the regular classes of the district or county with prior approval of the board of governors, providing an instructional aide is employed in each such regular class for the regular schoolday, and that supervision of the instructional program for educationally handicapped students is provided by a credentialed person having expertise and experience in teaching the educationally handicapped. Community college districts providing regular class instruction for educationally handicapped students under this subdivision shall be qualified for the individual apportionment under subdivision (i) of Section 84838.

78603. The maximum size for the special educational programs for educationally handicapped students defined in Sections 78601 and 78602 shall be as follows:

(a) For special day classes the maximum enrollment shall be 12 students per class.

If after the beginning of the school year it is determined that classes are at maximum size, that additional students will be without schooling unless additional classes are established, and that additional qualified teachers are not available for employment, a community college district may, on forms provided for this purpose by the board of governors, request permission of the board of governors to exceed the maximum class size for all or a part of the remainder of the school year. The board of governors may approve such request for all or a part of the remainder of the school year, provided the maximum size is not increased by more than two students above the maximum enrollment specified.

(b) For classes for autistic students, as defined by the board of governors, conducted by a community college district, the maximum class size shall be six students. The maximum class size prescribed herein may be exceeded upon a determination by the board of governors that to do so is in the best interests of the students and of the community college district maintaining such classes.

(c) For learning disability groups the maximum enrollment shall be 32; however, participation in any given learning disability group shall be for at least 30 minutes and shall not exceed eight students at any one time.

The instruction provided by a full-time instructor, whether offered by a single instructor or two or more part-time instructors, shall result in not more than eight units of average daily attendance being

credited as the result of such instruction.

78604. The governing board of each community college district may provide for instruction of educationally handicapped students who reside in all regularly established nonprofit, tax-exempt, licensed children's institutions within the district. Under such a program, a student who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level in the institution, or a student who resides in the institution and who is able to function in a school setting receives instruction at the appropriate grade level in the public school facilities.

The governing board may contract with the county superintendent of schools for the provision of such programs.

78605. A community college district maintaining special educational programs for educationally handicapped students shall not enroll at any given time more than 2 percent of total district enrollment in such programs except as permitted by special authorization of the board of governors. As used in this section, total district enrollment means the average number of students, exclusive of students for whom a tuition payment is charged pursuant to Chapter 11 (commencing with Section 42900) of Part 24 of Division 3 of Title 2, enrolled at the end of the first school month and the sixth school month of the school year.

The board of governors shall report to each regular session of the Legislature (1) the community college districts, permitted to exceed the 2 percent during the preceding school year, (2) the number of additional students involved, and (3) the reasons existing that resulted in granting the permission requested.

The 2-percent limitation prescribed by this section does not include students participating in a program for educationally handicapped students pursuant to Section 78604.

78606. In any fiscal year, extension of an existing program by a community college district which exceeds 120 percent of the enrollment at the end of the sixth school month of the prior year shall receive the prior approval of the board of governors before any allowance or apportionment is made therefor for the purposes of this article.

78607. Approval of the board of governors pursuant to Section 78606 shall be based on but not limited to the following:

(a) Actual demand for the program as demonstrated by the recommendations for placement by the local admission committee authorized in Section 78609.

(b) District experience in the operation of programs for educationally handicapped students.

(c) The demonstrated ability of the district to return educationally handicapped students, who can participate effectively, to the regular school program.

78608. Before initiating any program for educationally handicapped students the governing board of a community college

district shall apply to the board of governors for approval to do so and shall furnish such relevant information with respect to such proposed special education programs as may be required by the board of governors. Such application and such information shall be on forms provided by the board of governors.

78609. (a) Admission of minors to programs for the educationally handicapped established under the provisions of this chapter shall be made only on the basis of an individual evaluation according to standards established by the board of governors and upon individual recommendation of an admission committee which shall include an administrator in charge of special education programs in the community college district or county or administrator designated by the community college district or, an experienced special education teacher, a school nurse, and a school psychologist who has examined the student under consideration for eligibility and placement. The admission committee shall use such health reports as are needed to properly evaluate the child. The admission committee shall have the services or presence of other student personnel workers, educational specialists, school nurses, social workers, optometrists, or physicians as the committee may require and request.

The recommendation shall include a statement, that in the professional judgment of the members of the admission committee the minor is recommended for placement in a program for educationally handicapped minors to ameliorate a marked learning disability or behavior disorder, or both, associated with a neurological handicap or emotional disturbance, or both. Any member of the admission committee dissenting from the final committee recommendation shall attach to the final recommendation a statement of reasons for such objection and alternative recommendations.

(b) The administrative head of a community college district may make an interim placement of a student in a program for the educationally handicapped for a period not to exceed 90 days whenever a student transfers into the district from another district in which his last enrollment was in a program for educationally handicapped minors, such an interim placement may be made without the complete documentation specified in subdivision (a). Before the expiration of the 90-day period such interim placement shall be reviewed by the admission committee and a final recommendation shall be made by the admission committee in accord with the requirements of this chapter. The committee may utilize information, records, and reports from the admission committee proceedings of the district or county program from which the student transferred.

78610. The admission committee shall annually (1) review the appropriateness of the placement of students in special educational programs under the provisions of this chapter and (2) submit recommendations as to the return of such students to the regular school program, continuance in the program for the educationally

handicapped, transfer to other special educational programs, or referral to other agencies.

78611. Whenever any student is being evaluated for placement in a program for the educationally handicapped by an admission committee pursuant to Section 78609 or a review and recommendation procedure is being conducted by an admission committee pursuant to Section 78610, the parent or guardian of the student shall have the right to be present at all meetings of the admission committee concerning only that student, the right to a 48-hour prior written notice of such meetings, and the right to have a physician, optometrist, psychologist, social worker, or instructor, whether certificated or not, represent the student and present additional material, if any, to assist the admission committee in its determination with respect to the student.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the admission committee. The representative so selected may be an employee of the community college district.

78612. No student shall be required to participate in a program for educationally handicapped students unless the admission committee or a member of the admissions committee appointed by such committee has personally consulted with the parent or guardian of the student regarding the learning disorders of the student and the objectives of the program, and the parent or guardian has subsequent to such counseling and prior to participation in a special educational program, filed written consent to such participation with the governing board of the community college district.

78613. The board of governors shall adopt rules and regulations which shall prescribe standards for the individual identification and evaluation of educationally handicapped students and their admission to special education programs for educationally handicapped students. In arriving at such standards the board of governors shall receive assistance from an advisory committee consisting of one member from the board of governors and one member from the State Department of Health, such members to be appointed by the heads of the respective departments named. In addition, such advisory committee may consist of such additional members as are appointed by the board of governors.

78614. The board of governors shall adopt rules and regulations which shall prescribe standards for special educational programs for educationally handicapped students which shall include, but need not be limited to, individual evaluation of students and curriculum content for each type of program authorized pursuant to this chapter, and provisions for periodic examination, reevaluation, or transfer of educationally handicapped students participating in special educational programs maintained for each type of program authorized under the provisions of this chapter.

The board of governors shall adopt rules and regulations which prescribe standards for teacher qualifications for each type of

program authorized pursuant to this chapter.

78615. The testing or screening of all students in a particular grade, school, or district shall not be a condition of eligibility for apportionment under the provisions of Article 10 (commencing with Section 84830) of Chapter 5 of Part 50 of this division. In the event the governing board of a community college district elects to do such testing or screening, only such tests or screening procedures as are approved by the board of governors for this purpose shall be used. School districts intending to do such testing or screening shall give written notice to the parents or guardians of the minor students concerned at least 15 days prior to such testing or screening and shall provide copies of any written instruments to be used for such testing or screening in the office of the president of the school the pupils attend for examination by such parents or guardians. No minor student shall be required to participate in such screening or testing unless the parent or guardian files prior written consent to such participation with the governing board of such school district.

78616. The board of governors shall employ such persons as are necessary for the coordination and supervision of services for educationally handicapped students.

78617. The board of governors shall:

(a) Prescribe the form and manner of notification of intention to initiate a program.

(b) Prescribe the procedures for qualifying for allowances for special day classes, and for authorized instruction in other than special day classes of educationally handicapped students.

## Article 2. Loans to Instructors

78640. In order to assure having for the ensuing year certificated personnel qualified to teach educationally handicapped students, as defined in Section 78600, enrolled in programs of special education maintained by a community college district, the governing board of the community college district or the county superintendent of schools may enter into an agreement with any employee holding a position requiring certification qualifications who instructs, or any certified person under contract to instruct, educationally handicapped students for the ensuing school year for the community college district, whereby the district may make a loan of financial assistance, in such amount not in excess of that specified in Section 78642, as they may in writing agree upon, for such employee or certificated person under contract to undertake during the summers between academic school years specialized preparation, including courses, workshops, or specialized offerings, to teach educationally handicapped students, as approved by the board of governors.

78641. No later than October 31 of each year, the board of governors shall allow, out of funds appropriated to the board of governors for the purpose, to each community college district making loans pursuant to the provisions of this chapter an amount

sufficient to reimburse each such district for the total of such loans made during the summer immediately preceding pursuant to the provisions of Section 78642.

78642. The amount of reimbursement allowed a community college district pursuant to Section 78641 for each such loan for specialized preparation undertaken during any given summer by any given employee or certificated person under contract shall not exceed the product of the number of semester hours taken in any given summer multiplied by fifty dollars (\$50). The total amount of reimbursement allowed for all such loans to any given employee or certificated person under contract undertaking such specialized preparation shall not exceed the product of 30 semester hours multiplied by fifty dollars (\$50). No more than five years shall elapse between the first and final allowance in reimbursement of such loans for any given employee or certificated person under contract.

78643. Loans made pursuant to this chapter shall be repaid to the board of governors pursuant to rules and regulations adopted by the board of governors.

There shall be allowed a 20-percent credit in the repayment of a loan for each year the recipient of the loan teaches educationally handicapped minors.

78644. The board of governors shall establish rules and regulations for the administration of the provisions of this chapter and shall employ personnel necessary for the efficient administration of this chapter and Article 3 (commencing with Section 78860) of Chapter 6 of this part.

## CHAPTER 5. EDUCATION—PHYSICALLY HANDICAPPED STUDENTS

### Article 1. General Provisions

78700. For purposes of this chapter a student is a high school graduate, or equivalent, or between the ages of 18 and 21 inclusive, as defined in Section 76000.

78701. Subject to the provisions of this article and Section 1850, the governing board of any community college district may make such special provisions as in its judgment may be necessary for the education of physically handicapped students. "Physically handicapped student," as used in this article means a physically defective or handicapped person under the age of 21 years who is in need of education.

78702. Any student who, by reason of a physical impairment, cannot receive the full benefit of ordinary education facilities, shall be considered a physically handicapped individual for the purposes of this chapter. Such students include the following, as defined by the board of governors:

- (a) The deaf or hard of hearing.
- (b) The blind or partially seeing.

- (c) Orthopedic or health impaired.
- (d) The aphasic.
- (e) The speech handicapped.
- (f) Other students with physical illnesses or physical conditions which make attendance in regular day classes impossible or inadvisable.
- (g) Students with physical impairments so severe as to require instruction in remedial physical education.
- (h) Multihandicapped.

78703. Programs for physically handicapped students are:

(a) Special classes. A class established for a group of students with a similar handicapping condition defined in Section 78702. The special class shall be maintained for at least the minimum schoolday. The class shall be taught by a full-time teacher whose responsibility is to teach students enrolled in the class for the schoolday established by the governing board for regular classes at the grade level of the students in the special class who are at the highest grade level in the class.

(b) Regular day class program. A program of assistance to physically handicapped students enrolled in regular day classes who require special services and equipment beyond the services provided to students not determined to be physically handicapped to benefit fully from the regular classroom instruction. Such services may include, but are not limited to, supplemental teaching, transportation, teaching aides and specialized equipment.

(c) Integrated instructional programs. A program in which physically handicapped students who receive their education in regular classrooms from regular teachers, but receive, in addition, supplementary teaching services of a full-time special teacher credentialed to teach physically handicapped students of the type enrolled in the program. Such special teacher shall serve within the employing or other district being served, such physically handicapped students for the full schoolday established by the governing board for regular students in the public school or public schools enrolling such physically handicapped students.

(d) Remedial instruction. A remedial class providing physically handicapped students who are excused in small numbers, for not to exceed one class period or one hour from their regular or special program, remedial instruction or remedial physical education.

(e) Individual instruction. A program of individual instruction to physically handicapped students in hospitals, sanitariums, preventoriums, in the home, or under other circumstances as defined by the board of governors.

(f) Special speech instruction through speech aides. In counties having a total average daily attendance of less than 30,000 or defined as class five through class eight counties, inclusive, by Section 1205, a program of remediation for speech-handicapped students may be conducted through the use of specially trained instructional aides in structured programs of language and articulation under the

direction and guidance of a credentialed speech therapist. Reimbursement for such speech instruction shall be as provided by subdivision (j) of Section 84838. No more than two speech aides may be supervised by one speech therapist. The therapist shall be responsible for establishing goals and objectives and evaluating the aide's performance.

78704. The maximum size for any special day class authorized by subdivision (a) of Section 78703 is as follows:

	Ages 8 through 20 years
Types of pupils in class	
Deaf .....	8
Severely hard of hearing.....	10
Combination of deaf and severely hard of hearing .....	8
Blind .....	10
Partially seeing.....	12
Combination of blind and partially seeing .....	10
Orthopedic or other health impaired .....	16
Aphasic.....	8
Other physically handicapped .....	20
Deaf-blind multihandicapped .....	5
Other multihandicapped .....	8

The board of governors may waive the maximum class size standards prescribed by this section whenever it approves a project submitted by a community college district to conduct experimental studies to determine the proper maximum class size standards.

If, after the beginning of the school year, it is determined that classes for a given category of physically handicapped students are at maximum size, that additional such students will be without instruction unless additional classes are established, and that additional qualified instructors are not available for employment, or additional classroom space is not available, a community college district may request permission of the board of governors to exceed the maximum class size for the remainder of the school year, using the form provided for this purpose by the board of governors. The board may approve such request for the remainder of the school year, providing that the maximum size is not increased by more than two students of that provided herein, and the requesting district has consulted with the specific instructor involved. Such approval, when based on a lack of additional classroom space, shall not be given for any school year commencing July 1, 1977, or thereafter.

78705. The board of governors shall promote and direct special instruction in the community colleges for physically handicapped students. He may employ such professional and other personnel as are necessary for this purpose, and may perform such other duties as are necessary to give full effect to this article (commencing at Section 78701).

78706. The board of governors shall employ such persons as are necessary for the coordination and supervision of services of multihandicapped students.

78707. Whenever any student is being evaluated for placement in a program conducted pursuant to this chapter by an admission committee established by a community college district, the parent or guardian of the student shall have the right to be present at all meetings of the admission committee concerning only that student, the right to a 48-hour prior written notice of such meetings, and may have a physician, optometrist, psychologist, social worker, or instructor, whether certificated or not, represent the student and present additional material, if any, to assist the admission committee in its determination with respect to the student.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the admission committee. The representative so selected may be an employee of the district.

78708. The board of governors may prescribe minimum standards for the special education of physically handicapped students. No apportionment of state funds shall be made by the board of governors to any community college district on account of the instruction of physically handicapped students unless the standards prescribed for the instruction are complied with.

78709. Any community college district furnishing education to physically handicapped students pursuant to this article shall furnish such education to all such handicapped students actually living within the district five or more days a week, although their legal residence may be outside the district.

78710. Subject to the provisions of Section 1850, any community college district, which does not maintain facilities for the education of physically handicapped students may enter into a contract with a community college district in the same county, or a county superintendent of schools maintaining such facilities. If there is no district in the same county or county superintendent of schools maintaining such facilities, the governing board of the community college district may enter into a contract with a district maintaining such facilities in any other county. If the governing board of the district should determine the same to be more economical and practical, it may enter into a contract with a district situated in another county, in lieu of entering into a contract with the county superintendent of schools or a district in the county in which such district is situated.

Such contract shall provide for the payment of the cost of tuition by the district in which the physically handicapped student actually lives and may provide for payment of the cost of the use of the buildings and equipment. The cost of tuition shall not be greater than the difference between current expenditures per unit of average daily attendance, including transportation, for the education of a student in the particular category of physically handicapped students

to which the student belongs and the apportionment of state funds for the education of physically handicapped students in that category.

The amount shall be determined not later than the last Monday in December and the last Monday in May of each year by the county superintendent of schools of the county in which the student attends schools and certified to the superintendent of schools having jurisdiction over the schools of the district in which the student actually lives. The amount shall be forthwith paid from any funds of the district available for that purpose.

78711. Subject to the provisions of Section 1850 the governing board of a community college district may provide for the transportation of students assigned to special classes for physically handicapped students, and shall provide transportation for those students whose physical handicaps prevent their walking to the community college.

78712. Subject to the provisions of Section 1850 the governing board of the community college district in which any physically handicapped student is actually living, although the residence of his parents or guardian is outside the district, shall provide for the transportation of such student to the school at which education is furnished, if his handicap prevents his walking to the community college or if the distance is greater than one mile, regardless of whether such education is furnished within or without the district.

78713. Necessary care may be provided during school hours for students whose attendance has been irregular because of physical handicaps, and such employees as may be needed may be employed to provide the care.

78714. Subject to the provisions of Section 1850 the governing board of a community college district may establish regulations determining who can profit by and who shall receive the special instruction provided by this article. The regulations shall be subject to such standards as may be prescribed by the board of governors.

78715. Subject to the provisions of Section 1850 physically handicapped students may be instructed in special schools or special classes, in hospitals, sanatoriums, or preventoriums, in the home through the employment of home instructors, by cooperative arrangement with the Department of Rehabilitation, or by any other means approved by the board of governors.

78717. Subject to the provisions of Section 1850 special classes or individual instruction provided for pretuberculous, tuberculous, convalescent, or other physically handicapped students in hospitals, sanatoriums, and preventoriums, may be maintained in the institutions within or without the community college district, and the attendance of students in the institutions shall be credited to the district providing the instruction. The minimum schoolday for such classes is 180 minutes.

78718. The board of governors shall prescribe the procedures for qualifying for, and shall determine the amount of the allowances for

special classes and for the authorized instruction in other than special classes of physically handicapped students.

78719. The board of governors may appoint counselors to assist blind students attending public schools in the state to solve problems in connection with their school program. The counselors may visit blind students attending any public school in the state, in their homes to advise them and discuss with their parents the solution of problems pertaining to their community college attendance. The counselors shall be available to instructors and administrators in the community colleges where blind students are in attendance to advise and counsel them regarding the best methods and procedures for instructing blind students. The counselors shall be persons who have had special training for such work, and shall be thoroughly familiar with problems peculiar to the blind and their public school education. Blindness shall not be grounds to disqualify persons for these positions.

78720. Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for physically handicapped students. Upon approval by the board of governors the governing board of any community college district may separately, or in cooperation with the governing board or boards of one or more other districts, or in cooperation with the Department of Rehabilitation, employ a special coordinator, who shall make a study of employment and occupational opportunities and shall assist in the coordination of the education of the physically handicapped students with the commercial and industrial pursuits of the community, so as to prepare the students for employment.

78721. The Department of Employment Development shall, through the State Employment Development Service, cooperate with local school officials and the board of governors in the placement of physically handicapped individuals.

78722. No person shall be employed to instruct blind, partially seeing, deaf, hard-of-hearing, speech-handicapped, or orthopedically handicapped students in a special or remedial class for such students who does not hold a valid credential authorizing such instruction or a designated subject credential in the area of vocational education. Nothing herein shall be deemed to prohibit the employment, as a substitute teacher of each such special class for not more than 20 schooldays in any school year, of a person holding some other valid credential authorizing substitute instruction. Upon application by the community college district the board of governors may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which submitted.

78723. On and after September 1, 1975, no person shall be employed to instruct deaf, severely hard-of-hearing, blind, partially seeing, aphasic, or speech-handicapped students in the home, hospital, or licensed institution who does not hold a valid credential authorizing such instruction.

Nothing in this section shall be deemed to prohibit the

employment of a person holding some other valid credential authorizing substitute instruction for not more than 20 schooldays in a given school year to serve as a substitute for the appropriately credentialed instructor absent because of illness or other reason acceptable to the employing community college district. Upon application by the district or county superintendent of schools the board of governors may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which submitted.

78724. On and after September 1, 1975, no person shall be employed to instruct multihandicapped students as defined in Section 78702, who does not hold a valid credential to instruct exceptional students.

78725. Notwithstanding Section 78722, 78723, or 78724, any person may be employed to teach physically handicapped students in a sheltered workshop, occupational training program, or any other vocational education program if that person holds a designated subjects instructor's credential in a subject related to the program in which the person is employed.

78726. The board of governors may cooperate with the American Printing House for the Blind in the provision and distribution of braille books and other materials and equipment available from the American Printing House for the Blind for the use of blind students in the public schools of California under the provisions of an act entitled: "An act to amend the act to promote the education of the blind, approved March 3, 1879, as amended, so as to authorize wider distribution of books and other special instructional material for the blind, to increase the appropriations authorized for this purpose, and for other purposes," approved August 2, 1956 (Public Law 922, 84th Congress, 2d Session).

## CHAPTER 6. EDUCATION OF MENTALLY RETARDED STUDENTS

### Article 1. Education of Mentally Retarded Students

78800. "Mentally retarded students" means all students under the age of 21 years who because of retarded intellectual development as determined by individual psychological examination are incapable of being educated efficiently and profitably through ordinary classroom instruction.

78801. The education of mentally retarded students who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted may be provided to mentally retarded students who are above compulsory school age and less than 21 years of age.

An annual report shall be made by each community college district to the board of governors indicating the number of eligible students for whom no such special education is provided and the reason therefor.

No community college district shall initiate new programs relating to mentally retarded students after May 1, 1973, except programs planned before July 1, 1972, or programs which are not solely or partially financed by state funds.

78802. (a) Admission of a student to a special educational program for the mentally retarded established under the provisions of this article and in Sections 1880 to 1887, inclusive, shall be made only on the basis of an individual evaluation according to standards established by the board of governors and upon individual recommendation of a local admission committee which shall include an administrator in charge of special education programs in the district or county or other administrator designated by the community college district, an experienced special education instructor, a school nurse, and a school psychologist who has examined the student under consideration for eligibility and placement.

Whenever possible, the person serving on the admission committee for mentally retarded students may also serve on the admission committee for educationally handicapped students.

The admission committee shall use such medical reports as are needed to properly evaluate the student. The admission committee shall have the services or presence of other student personnel workers, educational specialists, school nurses, social workers, or physicians as the committee may require and request. Such recommendation shall include a statement that in the professional judgment of the members of the admission committee the student recommended for placement in any program for the mentally retarded can reasonably be expected to benefit from such placement. Any member of the local admission committee dissenting from the final committee recommendation shall attach to the final recommendation a statement of reasons for such objection.

(b) The administrative head of a community college district may make an interim placement of a student in a program for the mentally retarded for a period not to exceed 30 schooldays whenever a student transfers into the district from another district in which his last enrollment was in a program for mentally retarded students. Such an interim placement may be made without the complete documentation specified in subdivision (a). Before the expiration of the 30-day period such interim placement shall be reviewed by the admission committee and a final recommendation shall be made by the committee in accord with the requirements of this chapter. The committee may utilize information, records, and reports from the admission committee proceedings of the district or county program from which the student transferred.

78803. Whenever any student is being evaluated for placement in a program for mentally retarded pupils by an admission committee pursuant to Section 78802, the parent or guardian of the student shall have the right to be present at all meetings of the admission committee concerning only that student, the right to a 48-hour prior

written notice of such meetings, and may have a physician, optometrist, psychologist, social worker, or instructor, whether certificated or not, represent the student and present additional material, if any, to assist the admission committee in its determination with respect to the student.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the admission committee. The representative so selected may be an employee of the community college district.

78804. The Legislature finds and declares that the people of California have a primary interest in providing equal educational opportunity to students of all ethnic, socioeconomic, and cultural groups and that students should not be assigned to special classes or other special programs for the mentally retarded if they can be served in regular classes.

The Legislature hereby finds and declares that there should not be disproportionate enrollment of any socioeconomic, minority, or ethnic group students in classes for the mentally retarded and that the verbal portion of the intelligence tests which are utilized by some schools for such placement tends to underestimate the academic ability of such students.

78805. No student shall be placed in a special education class for the mentally retarded if he scores higher than two standard deviations below the norm, considering the standard error of measurement, on an individual intelligence test selected from a list approved by the board of governors.

No student shall be placed in a special education program for the mentally retarded when he is being tested in a language other than English if he scores higher than two standard deviations below the norm, considering the standard error of measurement, on the nonverbal intelligence test or on the nonverbal portion of an individual intelligence test which includes both verbal and nonverbal portions.

No student may be placed in a special education program for the mentally retarded unless a complete psychological examination by a credentialed school psychologist investigating such factors as developmental history, cultural background, and school achievement substantiates the retarded intellectual development indicated by the individual test scores. This examination shall include estimates of adaptive behavior. Until adaptive behavior scales are normed and approved by the board of governors, such adaptability testing shall include, but is not limited to, a visit, to the student's home by the school psychologist or a person designated by the chief administrator of the district, upon the recommendation of the school psychologist, and interviews of members of the student's family at their home. If the language spoken in the home is other than English, such interviews shall be conducted in the language of the home.

In the case of a student whose primary home language is other than English, the psychological evaluation shall be conducted in the

pupil's primary home language. It shall be administered by a credentialed school psychologist fluent in the language of the student. In the event such a person is not available, an interpreter qualified in the primary home language of the student shall be provided to assure effective communication between the student and the school psychologist administering the evaluation. The district shall provide the interpreter with in-service training in the application of evaluation techniques and procedures, such training to be given under the direction of a school psychologist according to guidelines established by the board of governors.

After a student has been screened and referred, written permission for the individual psychological evaluation shall be secured in a conference with a school official. After the individual psychological evaluation is completed, the psychologist shall recommend to the admission committee. Following the admission committee meeting, a committee member shall meet with the student to discuss the committee conclusion and to obtain written approval for placement.

78806. Any student who is determined to be misplaced in a special education program for the mentally retarded shall be withdrawn from such a program upon consultation with his parents or guardian. Such a student may be placed in a compensatory education program or any similar supplementary educational program conducted by the district with the goal of accelerating his educational attainment so that he may participate in the regular instruction of the district.

If a parent or guardian objects to the withdrawal of his child or ward from a special education class or program provided pursuant to Section 78801, he may request a hearing regarding such withdrawal. The hearing shall be held not less than 20 nor more than 30 days after the request is made.

For purposes of Section 78801, the hearing panel shall consist of a credentialed school psychologist, an instructor currently instructing a special education class at the same level in which the student is enrolled, but who is not an employee of the community college district involved, and a special education administrator, each of whom shall be designated by the county superintendent of schools. In any case in which it is not practicable to secure the services on the panel of a person or persons having the qualifications herein specified, the county superintendent of schools may designate for service on the panel a person or persons not having such qualifications but whom the superintendent deems otherwise qualified to serve. The panel, by majority vote may uphold or reverse the action taken by the district to withdraw the student from the program. The decision of the panel is binding upon the community college district. Upon a decision by the panel to reverse the district decision, the student shall be readmitted to a special education class for the mentally retarded notwithstanding Section 78805, except that in no case shall a student scoring higher than one standard deviation

below the norm, considering the standard error of measurement, be readmitted to such a class.

The hearings shall be conducted pursuant to rules and regulations adopted by the board of governors.

78807. Mentally retarded students who come within the provisions of Section 78801 may be enrolled in integrated programs of instruction conducted by a community college district.

(a) An integrated program of instruction for mentally retarded students shall be defined as a program in which mentally retarded students, who are enrolled in a special day class taught by an instructor holding a valid credential to instruct exceptional students shall be so designated when they are integrated in regular classes in which the content and method of instruction has been modified to the extent that mentally retarded students can benefit from such integration.

The community college district conducting the integrated program of instruction shall be entitled to an apportionment equal to the amount which would have been credited to them had these students been enrolled full time in a special class for the mentally retarded.

(b) Whenever the number of mentally retarded students is less than six in each of one or more schools of a district or schools served by a county superintendent and the distance between any school also having mentally retarded students is excessive, prohibiting the reasonable transportation of students, such students may be instructed in the regular classes of the district or county with prior approval of the board of governors, providing an instructional aide is employed in each such regular class for the regular schoolday and that supervision of the instructional program for mentally retarded students is provided by a person holding credentials to teach the mentally retarded. Community college districts providing integrated programs under this subdivision shall be qualified for the individual apportionment under subdivision (h) of Section 84838.

(c) Such programs shall be conducted in accordance with rules and regulations established by the board of governors.

78808. Programs for mentally retarded students identifiable pursuant to Section 78802 are:

(a) Special day classes. A class established for mentally retarded students (as defined by Section 78802). The class shall be maintained for a least the minimum schoolday. The class shall be taught by a full-time teacher whose responsibility is to teach students enrolled in the class for the schoolday as established by the governing board for regular classes for students who are at the highest grade level in the special class.

(b) An integrated program of instruction. A program for mentally retarded students in which mentally retarded students who are enrolled in a special day class taught by a teacher holding a valid credential to teach exceptional students, are integrated in regular classes in which the content and method of instruction has been

modified to the extent that mentally retarded students can benefit from such integration. Such programs shall be conducted in accordance with rules and regulations established by the board of governors.

78809. The maximum enrollment of students enrolled in special classes as defined by subdivision (a) of Section 78808 shall be 18 students except that when the chronological age span is more than four years the appropriate maximum enrollment shall be 15 students.

The board of governors may waive the maximum class size standards prescribed by this section whenever it approves a project submitted by a community college district to conduct experimental studies to determine the proper class size standards.

If after the beginning of the school year it is determined that classes are at maximum size, that additional students will be without schooling unless additional classes are established, and that additional qualified instructors are not available for employment, or additional classroom space is not available, a community colleges district on forms provided for this purpose by the board of governors, request permission of the board of governors to exceed the maximum class size for all or a part of the remainder of the school year. The board of governors may approve such request for all or a part of the remainder of the school year, provided the maximum size is not increased by more than two students above the maximum enrollment specified, and the requesting district has consulted with the specific instructor involved. Such approval, when based on a lack of additional classroom space, shall not be given for any school year commencing July 1, 1977, or thereafter.

78810. Continuance of students in special education programs for the mentally retarded authorized under Section 78801 shall be the subject of annual review and recommendation by the local admission committee to determine whether continued placement in the special educational program is appropriate.

78812. The board of governors shall employ such persons as are necessary to carry out the purposes of Sections 78800 to 78820, inclusive.

78813. Before any student is placed in a school or class for mentally retarded students, he shall be given a careful individual examination by a competent psychologist holding a credential for that purpose issued by the board of governors or Commission for Teacher Preparation and Licensing, or by a person serving under the supervision of such a psychologist and holding a credential for that purpose issued by the board of governors or commission, and a consultation with his parents or guardian held. A psychiatrist may be consulted in any specific case when the governing board of the district deems it necessary.

78814. No examination as specified in Sections 78800 to 78820, inclusive, shall be given if the student objects on the ground that such examination is contrary to the religious beliefs of such parent or guardian.

78816. In lieu of entering into an agreement for the transportation of mentally retarded students by the community college district, in the special training schools and classes of which the education of such students is provided under Section 1884, the community college district required to provide for their education may provide such transportation.

78817. No person shall be employed as an instructor of mentally retarded students who does not hold a valid credential for the education of mentally retarded students. Nothing herein shall be deemed to prohibit the employment, as a substitute teacher of each special training class of mentally retarded students for not more than 20 schooldays in any school year, of a person holding some other valid credential authorizing substitute instruction.

78818. Notwithstanding Section 78817, any person may be employed to instruct mentally retarded students in a sheltered workshop, occupational training program, or any other vocational education program if that person holds a designated subjects instructors credential in a subject related to the program in which the person is employed.

78819. Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for mentally retarded students. Upon approval by the board of governors the governing board of any community college district may, separately, or in cooperation with the governing board or boards of one or more other community college districts, or in cooperation with the Bureau of Vocational Rehabilitation of the State Department of Education, employ a special coordinator, who shall make a study of employment and occupational opportunities and shall assist in the coordination of the education of the mentally retarded students with the commercial and industrial pursuits of the community, so as to prepare the students for employment.

78820. The board of governors shall prescribe the procedures for qualifying for and shall determine the amount of the allowances for special classes and for authorized instruction in other than special classes of mentally retarded students.

78821. Whenever any community college district maintains special training schools or classes for the education of mentally retarded students who come within the provisions of Section 78801, or special schools, classes or integrated programs where a qualified special teacher is provided for the education of physically handicapped students who come within the provisions of Sections 78701 and 78702, the governing board of the community college district may apply to the board of governors for an apportionment pursuant to Sections 78821 to 78826, inclusive.

78822. The application shall be made prior to September 1st of each school year in the form and manner prescribed by the board of governors and shall include an estimate of the average daily attendance that will be credited to such schools, classes or integrated programs during the school year for which an advance

apportionment is requested. Such estimate shall be based upon the number of students residing in the district or in an adjacent district that come within the provisions of Sections 78701 and 78702 and who will attend such schools, classes or integrated programs, and shall be subject to the approval of the board of governors.

78823. Not later than 30 days after such application, the chancellor, if he approves, shall apportion to each applicant community college district from the State General Fund, as an advance against future apportionments from the State School Fund to such district, an amount equal to the maximum amount allowable for each type of program included in the request per unit of average daily attendance to community college districts for the excess expense of educating mentally retarded students who come within the provisions of Section 78801, and physically handicapped students who come within the provisions of Sections 78701 and 78702 multiplied by eight and the product thereof multiplied by the number of special classes or integrated programs maintained by the applicant district for such students.

78824. The chancellor shall furnish an abstract of all apportionments made to community college districts of any county under Sections 78821 to 78826, inclusive, to the State Controller, the Department of Finance and to the county auditor, county treasurer and county superintendent of schools of the county and shall certify such apportionments to the State Controller who shall thereupon draw his warrants on the State General Fund in favor of the county treasurer of each county for the amounts apportioned to the districts of the county.

78825. All moneys received by the treasurer of a county under Sections 78821 to 78826, inclusive, shall be credited by the treasurer to the general fund of the community college district of the county exactly as apportioned by the chancellor.

78826. During the next two fiscal years after the fiscal year in which such apportionment is advanced to a community college district under Sections 78821 to 78826, inclusive, the State Controller shall deduct from apportionments made to each such community college district from the State School Fund an amount equal to the amount apportioned to such district under Sections 78821 to 78826, inclusive, and pay the same into the State General Fund.

78827. Every mentally retarded, physically handicapped, or multihandicapped student, as defined in Section 56030, is entitled to training or an education free of charge in the public schools of this state.

(Added by Stats. 1976, Ch. 1011 )

## Article 2. Occupational Training

78840. The board of governors may adopt rules and regulations governing the establishment and conduct of programs for preparing

physically handicapped and mentally retarded students enrolled in special day classes for suitable occupations. Such programs shall provide for physically handicapped and mentally retarded students under the age of 21 years who are unable to profit by courses of work experience education as provided in Article 4 (commencing with Section 78240) of Chapter 2 of this part.

78841. For the purposes of this article, "minor" means any person under 21 years of age notwithstanding Section 25 of the Civil Code or any other provision of law.

78842. Community college districts may contract with sheltered workshops and other work establishments approved for supervised occupational training of physically handicapped and mentally retarded students under the age of 21 years, and reimburse such sheltered workshops and work establishments for the expenses incurred in the training of such students.

The board of governors shall reimburse school districts for the cost per student per year, or fraction thereof, for the services provided by sheltered workshops and work establishments.

Such reimbursement shall be the cost of such service not to exceed six hundred fifty dollars (\$650) per year, less the share of the community college district, as determined pursuant to rules and regulations adopted by the board of governors.

78843. The governing board of any community college district, of any county, maintaining secondary schools may enter into contracts with the governing boards of other such districts, or with a county superintendent of schools, and with any department or agency of the state to obtain or provide services and other assistance necessary in connection with providing effective rehabilitation services, to include but not limited to occupational training, mobility training, sheltered workshops and work-experience programs.

Any community college district governing board, which enters into a contract with the State Department of Rehabilitation under this section may employ, or allow to be employed, in the community college district or with a county superintendent of schools, employees of the State Department of Rehabilitation or other persons not employed by the department but certified by the department to be fully qualified for such employment. A certification to the board of governors by the State Department of Rehabilitation that the individual meets all the requirements and fulfills all the qualifications of that department for the position for which he is being considered shall serve as evidence that the individual meets the academic, professional and experience requirements for a services credential with a specialization in student personnel services as a rehabilitation counselor or mobility instructor for the blind, in accordance with requirements adopted by the Commission for Teacher Preparation and Licensing, which the individual must obtain in order to render services in the public schools.

Notwithstanding any other provision of this code, when an

individual is so certified by the State Department of Rehabilitation as qualified for employment, other teacher certification requirements required by this code or by Title 5 of the California Administrative Code shall be waived for that individual.

78844. The governing board of a community college district hereinafter referred to as the "agency" may establish and operate a sheltered workshop or new rehabilitation service. Prior to commencing such a sheltered workshop or new rehabilitation service, however, an agency shall publish, not less than 30 days before the commencement of such a workshop or rehabilitation service, its intention to operate a sheltered workshop or new rehabilitation service in a newspaper of general circulation within the area in which such sheltered workshop or new rehabilitation service will be commenced, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the county in which such sheltered workshop or new rehabilitation service will commence. In addition, a copy of such publication, along with the pertinent details of the sheltered workshop or new rehabilitation service, shall be sent to the Chancellor, California Community Colleges, Department of Education and the State Department of Rehabilitation. Said departments may comment on the advisability of commencing such a sheltered workshop or new rehabilitation service, or any other aspect of such sheltered workshop or new rehabilitation service deemed advisable, to the agency planning to commence such a sheltered workshop or new rehabilitation center and if commented upon, shall make their comments available to the public.

78845. As used in this article, "rehabilitation facility" is defined to mean an organization and physical facility, publicly, privately, or cooperatively sponsored, in which a program of integrated and coordinated services is offered. These services are provided for emotional, developmental, social and vocational restoration or personal adjustment of adults and minors with handicaps and disabilities. The range of services may include, but not be limited to, evaluation, education, training, sheltered or extended employment and placement. A rehabilitation facility shall include, but not be limited to, a sheltered workshop, activity center, semisheltered workshop, and facilities which provide work skills development programs.

### Article 3. Grants to Instructors of Mentally Retarded Students

78860. The governing board of a community college district, in order to assure having instructors qualified to instruct physically handicapped and mentally retarded students enrolled in programs of special education maintained by such district and any employee of the district holding a position requiring certification qualifications, or any certificated person under contract to the district to instruct physically handicapped or mentally retarded students, may enter

into an agreement whereby the district may make a grant of financial assistance, in such amount not in excess of that specified in Section 78862, as they may in writing agree upon, for the said employee or certificated person under contract to undertake during the summers between academic school years specialized preparation to instruct physically handicapped or mentally retarded students as required by law and board of governors regulations.

78861. Not later than October 31 of each year the board of governors shall allow to each community college district making grants to employees or certificated persons under contract pursuant to the provisions of this article an amount sufficient to reimburse each such district or county superintendent of schools for the total of such grants made during the summer immediately preceding pursuant to the provisions of Section 78862.

78862. The amount of reimbursement allowed a community college district pursuant to Section 78861 for each such grant for specialized preparation undertaken during any given summer by any given employee or certificated person under contract shall not exceed the product of the number of semester hours taken in any given summer and fifty dollars (\$50). The total amount of reimbursement allowed for all such grants to any given employee or certificated person under contract undertaking such specialized preparation shall not exceed the product of the number of semester hours of specialized preparation required by law and regulations for the credential to instruct the category of physically handicapped or mentally retarded students being sought and fifty dollars (\$50). No more than five years shall elapse between the first and final allowance in reimbursement of such grants for any given employee or certificated person under contract except by approval of the board of governors upon the recommendation of the governing board of the community college district of such employee or certificated person under contract.

78863. The Chancellor of the California Community Colleges shall, upon approval of the board of governors, establish rules and regulations for the administration of the provisions of this article.

## CHAPTER 7. INSTRUCTIONAL MATERIALS

### Article 1. Prohibited Acts

78900. No publisher or manufacturer of instructional materials, nor any of his representatives, shall offer or give any emolument, money, or other valuable thing, or any inducement, to any community college official to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

78902. No community college official shall accept any emolument, money or other valuable thing, or any inducement to directly or indirectly introduce, recommend, vote for, or otherwise

influence the adoption or purchase of any instructional material.

78903. Any publisher or manufacturer of instructional materials or his representative, or any community college official who violates any of the provisions of this article is guilty of a misdemeanor. Any community college official who violates any of the provisions of this article shall, in addition to any other penalty, be removed from his official position.

78904. Nothing in this chapter shall be construed to prevent any publisher, manufacturer, or agent from supplying for purposes of examination necessary sample copies of instructional materials to any community college official.

78905. Nothing in this chapter shall be construed to prevent a community college official from receiving sample copies of instructional materials.

78906. Nothing contained in this chapter shall be construed to prohibit or restrict a community college official from receiving royalties or other compensation from the publisher or manufacturer of instructional materials written, designed, or prepared by such community college official, and adopted or purchased by any governing board, other than compensation paid as commission to the community college official for negotiating sales to governing boards. No district shall have or claim the right to receive any such royalty or other compensation due to any community college official employed by the district unless the instructional material was written or prepared during the normal schoolday during which the community college official is required by the district to be on duty.

78907. The Legislature finds that the use by any person, including a student, of any electronic listening or recording device in any classroom of the secondary schools without the prior consent of the instructor and the president of the college given to promote an educational purpose disrupts and impairs the teaching process and discipline in the community colleges, and such use is prohibited. Any person, other than a student who willfully violates this section shall be guilty of a misdemeanor.

Any student violating this section shall be subject to appropriate disciplinary action.

This section shall not be construed as affecting the powers, rights, and liabilities arising from the use of electronic listening or recording devices as provided for by any other provision of law.

## Article 2. Reports

78920. Each district board shall make reports, whenever required, directly to the board of governors, concerning the instructional materials used in its colleges.

### Article 3. Application of Chapter

78930. No provision of this chapter shall be construed as requiring the district board of any community college district to provide instructional materials free of charge, or otherwise, to any student enrolled in any community college, nor shall any of the provisions of this division be construed as applicable to instructional materials required or authorized to be used by students in any community college.

78931. No provision of this chapter shall be construed as requiring the district board of any district to provide instructional materials, free of charge, or otherwise, to any adult enrolled in a class for adults, nor shall any of the provisions of this division be construed as applicable to instructional materials required or authorized to be used by adults in classes for adults.

78932. No provision of this chapter shall be construed as prohibiting any district board, or any county library, from ordering and purchasing from their own funds such instructional materials as they may require, including state-listed materials at a price equal to that computed pursuant to Section 60243.

78933. If any provision of this chapter, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the division which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

## CHAPTER 8. SCHOOL TERMS

### Article 1. General Provisions

79000. The school year begins on the first day of July and ends on the last day of June.

79001. (a) A school month is 20 days or four weeks of five days each, including legal holidays; provided, however, that for the purposes of counting attendance only in providing for a school calendar the Christmas vacation period, or any portion thereof, may be excluded by the community college district in the definition of a school month.

(b) The provisions of subdivision (a) of this section are limited to defining a school month for attendance counting purposes only. A school month for employee pay purposes may be designated by the governing board to begin on any day of the week.

79002. Except where a school has been closed by order of a city or a county board of health, or of the State Board of Health, on account of contagious disease, or where the school has been closed on account of fire, flood, or other public disaster, the governing board of any community college district shall maintain all of the day community colleges established by it for an equal length of time during the school year.

79003. When it is necessary for the convenience of the residents of any district that the school be maintained a part of the year in one portion of the district, and a part of the year in another portion of the district, the aggregate of the time the school is maintained in the different portions of the district shall be the time for which a school has been maintained in the district during a school year.

## Article 2. Closing Schools

79010. During the continuance of a state of war between the United States and any foreign power, the board of governors, with the approval of the Governor, may, whenever in its opinion it is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the state, make an order closing, for such time as may be specified, any or all, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such community college, or any grade or class thereof, during the continuance of a state of war.

79011. The annual school term shall not be reduced to less than six months pursuant to this article.

79012. Whenever any educational institution is closed, or the opening is delayed pursuant to this article, the salary of any instructor regularly employed shall be paid according to any written contract between the governing board of the educational institution and the teacher, or, if there is no written contract, according to any salary schedule adopted by the board. If there is neither contract nor salary schedule, the total salary paid for any school year in which the order closing or postponing the opening of schools is made shall not be less than the salary paid by the governing board of the educational institution for similar services during the preceding school year.

79013. An order issued under this article may be made applicable to any district, or any group thereof, as the board of governors may determine and specify, and may be altered, amended, or rescinded from time to time.

79014. Nothing contained in this article shall in any manner affect the amount of money apportioned to any community college district during any school year.

## Article 3. Holidays and Observances

79020. Except as otherwise provided the public schools shall continue in session or close on specified holidays as follows:

(a) The public schools shall close on January 1st, February 12th known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4th, the first Monday in September known as "Labor Day," September 9th known as "Admission Day," November 11th known as "Veterans Day," that Thursday in November proclaimed

by the President as "Thanksgiving Day," and December 25th.

(b) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the public schools shall close on the day. If the Governor does not provide whether the public schools shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(c) The public schools shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(d) The public schools shall continue in session on all legal holidays other than those designated by or pursuant to this section and shall hold proper exercises commemorating the day.

(e) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(f) When any of the holidays on which the schools would be closed fall on Saturday, the public schools shall close on the preceding Friday, and such Friday shall be declared a state holiday.

(g) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any community college district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(h) Nothing in this section is to be interpreted as authorizing a community college district governing board to maintain community colleges in its district for a lesser number of days during the school year than the minimum established by law.

79021. (a) Notwithstanding any other provision of this article, whenever the Governor appoints any other day as a holiday and does not provide for the closing of the public schools, but such public schools do close, such closing shall be deemed a closing for a holiday declared by the governing board pursuant to the provisions of Section 79022.

(b) All certificated employees shall be deemed to have served the public schools on holidays appointed by the Governor during the calendar year of 1969.

All payments to certificated employees of the public schools for the holidays appointed by the Governor heretofore made during the calendar year 1969, shall be deemed to have been earned and the payments therefore are validated, and any certificated employee of the public schools shall be granted and paid for such holidays appointed by the Governor during the calendar year 1969 as provided for in Section 87815, if the appointed holiday occurred during the school term. In the event the holiday occurred during summer school, the certificated employee shall be paid for the appointed holiday in an amount such certificated employee would

have received had he served on such holiday, which amount shall be determined in accordance with the rate of pay he is receiving pursuant to Section 87822.

(c) All classified employees shall be deemed to have served the public schools on holidays appointed by the Governor during the calendar year of 1969.

All payments to classified employees of the public schools for the holidays appointed by the Governor heretofore made during the calendar year 1969, shall be deemed to have been earned and the payments therefore are validated. Any school district which closed schools during calendar year 1969 for holidays appointed by the Governor but did not pay classified employees for those holidays shall do so, and employee entitlement shall be established under Section 88203.

79022. Notwithstanding any other provision of this article, and Section 52370, the governing board of any community college district may declare a holiday in the public schools under its jurisdiction when good reason exists.

79023. All public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln and George Washington on February 12th and February 22nd, respectively, or on the day in which school is in session next preceding, if the specified day is a holiday.

(Added by renumbering Section 66021 by Stats 1976, Ch 1011 )

79026. February 15th of each year, the anniversary of the birthday of Susan B. Anthony, is designated and set apart as Susan B. Anthony Day.

All public schools and educational institutions shall observe this day with suitable exercises, directing attention to the development of the political and economic status of women in the United States, through the efforts of Susan B. Anthony.

(Added by renumbering Section 66022 by Stats. 1976, Ch. 1011.)

79024. All community colleges shall include in the schoolwork on or near the anniversary of the adoption of the Constitution of the United States exercises and instruction for students suitable to their ages in the purpose, meaning, and importance of the Constitution of the United States, including the Bill of Rights.

79025. March 7th of each year, the anniversary of the birthday of Luther Burbank, is set apart and designated Conservation, Bird, and Arbor Day.

All community colleges shall observe Conservation, Bird, and Arbor Day not as a holiday, but by including in the schoolwork of the day, suitable exercises having for their object instruction as to the economic value of birds and trees, and the promotion of a spirit of protection toward them, and as to the economic value of natural resources, and the desirability of their conservation.

79027. March 5th of each year, the anniversary of the death of Crispus Attucks, the first black American martyr of the Boston

Massacre, is designated and set apart as Black American Day to direct attention to the development of black people in the United States of America.

All community colleges shall observe this day with suitable exercises.

79027.5. All public schools and educational institutions throughout the state shall, on January 15th of each year, the anniversary of the birth of Dr. Martin Luther King, Jr., hold suitable exercises commemorating, and directing attention to the history of, the civil rights movement in the United States, and particularly the role therein of Dr. Martin Luther King, Jr.

79028. The governing board of any community college district may provide for the maintenance of community college classes on Saturday or Sunday.

Saturday and Sunday classes may be counted toward the 175-day minimum required for a regular day college, when, due to unforeseen circumstances, the college is closed, or the public schools are closed, by order of the President of the United States or the Governor of the State of California.

79029. During any national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, upon a finding by the Department of Employment Development that spoilage of a perishable crop will result because of a critical shortage of farm labor the governing board of a community college district in which such crop is located may maintain the schools of the district on Saturdays, the first day of January, the 12th day of February, the third Monday of February, the last Monday of May, and the fourth Monday in October, in order to make students of the district available for the harvesting of crops without undue reduction in the number of days the schools of the district are maintained.

79030. Whenever climatic conditions of a community college district are such as to render it necessary that the schools be closed as early in the year as possible or opened as late in the year as possible, the governing board of the community college district may maintain schools and classes on any days other than Saturday, Sunday, the 25th day of December, the first day of January, the fourth day of July, and any day appointed by the President or the Governor for a public thanksgiving.

When classes are maintained on holidays pursuant to this section, proper exercises shall be held commemorating the day.

79031. In every community college there shall be conducted daily appropriate patriotic exercises. The giving of the pledge of allegiance to the Flag of the United States of America shall satisfy such requirement. Such patriotic exercises for secondary schools shall be conducted in accordance with the regulations which shall be adopted by the governing board of the community college district.

79032. Notwithstanding any other provisions of this article, the governing board of any community college district providing, or any

county superintendent of schools providing by agreement with the governing board of one or more community college districts, programs and classes in outdoor science education and conservation education pursuant to Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 of Division 1 of Title 1 may maintain the programs and classes in outdoor science education and conservation education (a) on the fourth day of July when it does not fall on either a Saturday or a Sunday or (b) when it falls on either a Saturday or a Sunday, on the respective Friday or Monday which would otherwise, pursuant to subdivision (f) or (e), respectively, of Section 79020, be a holiday on which the public schools would be required to be closed.

Credit may be granted for attendance at programs and classes authorized by this section only for those students attending the program.

## CHAPTER 9. MISCELLANEOUS

### Article 1. Child Development Centers

79120. The governing board of any community college district may establish and maintain a child development center on or near each community college campus pursuant to the provisions of Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.

79121. The governing board and any other public or private nonprofit agency may contract with the Department of Education to establish and maintain such campus child development centers. The governing boards may accept student fees, parent fees, and private funds to operate campus child development centers and may be reimbursed for eligible costs pursuant to Sections 8209 and 8380. Nothing in this chapter shall be construed to permit the governing board to expend state funds appropriated to the district for support of the community college for the direct operating costs of a campus child development center.

79122. Notwithstanding any other provision of law, children under two years of age whose parent or parents are students may attend child development centers consistent with the priorities established pursuant to law.

79123. Children of students of that particular campus shall have first priority for attendance at a campus child development center.

Student families, as defined in Section 8250.1, whose gross monthly income falls within the fee schedule established pursuant to Section 8249 shall pay fees according to the fee schedule.

Highest priority shall be given to student families with the greatest income deficit, and lowest priority to student families with the greatest income.

For the purposes of assigning eligibility priority, applicant student families shall be grouped according to the amount of their income in one-hundred-dollar (\$100) monthly increments. All student families

within a particular income range shall be treated as if their incomes were the same, and priority for eligibility within each particular income range shall be assigned on the following basis:

(1) Single-parent student families.

(2) Two-parent families, where both parents are students or where one parent is a student and the other is working.

Student families who are recipients of public assistance shall be subject to the same assignment of priority as other student families whose incomes fall in the same income range.

79124. Every child development center maintained pursuant to Section 79120 shall have an advisory council composed of representatives of the parent-users and persons from fields related to the well-being of children.

## Article 2. Classes in County Institutions

79130. Whenever a community college district maintains a school or classes at a tuberculosis or polio ward, hospital or sanatorium established and maintained by a county or group of counties, any person who has been admitted to such ward, hospital or sanatorium is, if otherwise qualified, eligible to attend such school or classes but shall be deemed to be, for the purposes of this code, a resident of the district in which he resided prior to his admission to such tuberculosis or polio ward, hospital or sanatorium.

The minimum schoolday for such classes is 180 minutes. Whenever two or more districts are authorized and operate such schools or classes the governing boards of the districts may jointly employ personnel to administer and conduct the programs.

The community college district maintaining the school shall, no later than 30 days following the date of enrollment of a student who resides in another district under this section, notify the district of residence of the student's enrollment.

79131. The cost for a school year of educating any person who attends such a school or class and who is deemed to be a resident of the district in which he resided prior to his admission to such tuberculosis or polio ward, hospital, or sanatorium shall be paid by the community college district of which any such person is a resident to the district maintaining a school or class in which such person is enrolled pursuant to this article.

Students in such schools or classes shall be apportioned excess cost apportionments for handicapped students as stated elsewhere in this code.

The board of governors shall adopt standards and regulations relating to administration, attendance, accounting and counseling in hospital schools and classes.

No interdistrict attendance agreement is required for the attendance described by this section but the provisions of Chapter 5 (commencing with Section 46600) of Part 26 of Division 1 of Title 2, relating to crediting average daily attendance and tuition, shall

apply to such attendance.

79132. Not later than July 15th of each year, the district maintaining such school or classes shall forward its claim to the district of residence, for the cost of educating persons who are residents of such district during the preceding school year, and the governing board of such district shall upon the receipt thereof pay such claim.

### Article 3. Educational Opportunities for Selected Inmates

79140. (a) There is hereby created a one-year pilot program designed to provide regular community college educational opportunities for selected inmates confined in California correctional institutions, and for selected wards confined in facilities of the California Youth Authority.

(b) The governing board of any community college district may contract with the warden or superintendent of any state institution or facility under the jurisdiction of the Department of Corrections or the Department of Youth Authority for educational services, courses or programs for inmates conducted pursuant to Section 2079.5 of the Penal Code.

(c) The attendance of inmates or wards in such classes shall not be included in the regular average daily attendance of the community college district, but such attendance shall be separately reported by the district to the chancellor's office.

(d) On or before November 1, 1975, the governing board of any community college district contracting under subdivision (b) shall report to the chancellor's office on the nature and scope of all contracts entered into pursuant to Section 2079.5 of the Penal Code and this section.

### Article 4. Pilot Program for Cooperative Education

79150. The office of the Chancellor of the California Community Colleges shall conduct a pilot program of up to three years' duration in cooperative education for not more than five community college districts. For the purposes of this act, "cooperative education" means on-the-job experience directly related to the student's educational goals. Cooperative education requires the supervision of an appropriately credentialed faculty member and is not limited to vocational education.

In order to enroll in a cooperative education program, a student must have earned at least 12 semester units or 18 quarter units at the community college at which he seeks to enroll in the program.

A student enrolled in a cooperative education program may not receive more than one semester unit for each five hours of fieldwork per week or one quarter unit for each 3½ hours of fieldwork per week.

No student may receive more than 16 units of semester credit or

24 units of quarter credit for cooperative education classes. No student may enroll in a cooperative education program for more than eight units per semester or 12 units per quarter.

No student may enroll jointly in a cooperative education program and a work-experience education program. Any credit for work-experience education which had been earned by a student prior to his enrollment in a cooperative education program shall be deducted from the maximum number of units for cooperative education allowable under the fourth paragraph of this section.

Average daily attendance in cooperative education shall be computed pursuant to Section 84530. The Chancellor of the California Community Colleges shall approve cooperative education programs which comply with existing regulations for new educational program approval and the other provisions of this section.

Followup evaluations and recommendations for new cooperative education programs, based upon the findings of the three-year study, shall be made by the office of the Chancellor of the California Community Colleges.

#### Article 5. Basic Work Station

79160. A basic work station in industrial education is defined as an assigned location where a student normally spends the majority of his class time performing the operational functions necessary to meet the performance objectives and goals of the course, including industrial safety education. For these purposes, the number of students in any industrial education facility or laboratory in community college programs shall not exceed the number of basic work stations designed for the number of students assigned, as determined by the governing board of the community college district.

### PART 49. COMMUNITY COLLEGES, EDUCATION FACILITIES

#### CHAPTER 1. SCHOOL SITES

##### Article 1. Location

81000. Except as provided in this article, any regular day school required to be maintained by the governing board of a community college district shall be maintained within the boundaries of the district.

81003. The governing board of a community college district, may establish and maintain outside of the boundaries of the district, for persons in the service of the United States or of the state assigned to, or serving at any camp, post, or other place under the jurisdiction of the United States or of the state, or for persons employed or living

on any such camp, post, or other place, or for persons evacuated from the district by order of any military officer of the United States or of the state, to meet an emergency created by war, or of any civil officer of the United States, the state, or any county, city and county, or city authorized to order such evacuation to meet an emergency created by war, and for the students any schools or classes which the board may lawfully establish and maintain within the boundaries of the district.

The governing board of the district shall not maintain any school or class for other than students evacuated from the district, under the provisions of this section in any other community college district without the consent of the governing board of the other district.

81004. The governing board of any community college district situated in a county with a population of 228,309 or more may enter into an agreement with the federal government in the form of a term special use permit whereunder the community college district is authorized to construct, maintain and operate school buildings and facilities upon National Forest Service land. Such agreement shall be for a term of 20 years or more, unless sooner terminated by the federal government. Subject to the approval of the board of governors, such agreement shall be on such terms and conditions as may be agreed upon between the governing board of the community college district and the agency of the federal government executing such agreement.

All acts and proceedings heretofore undertaken by the governing board of any community college district under any law, or under color of any law, pursuant to any such agreement or term special use permit whereunder the community college district has constructed, or operated and maintained, or both, school buildings and facilities are hereby validated and declared legally effective.

81005. Notwithstanding any other provision of this code to the contrary, whenever under the provisions of Section 310 of the act of Congress entitled, "An act relating to the construction of school facilities in areas affected by federal activities, and for other purposes" (Public Law 81-815), or under any similar provisions of any other act of Congress, school facilities are constructed by any agency of the federal government on federal property for the education of students residing on property owned by the federal government, the governing board of the community college district in which such facilities are located or the governing board of any adjacent community college district, with the approval of the Board of Governors of the California Community Colleges, may make arrangements with the agency of the federal government to maintain school in such facilities. The students residing on such federal property and attending such school shall be deemed to be residents of the district maintaining such school.

81006. The maintenance of a school by a district outside the boundaries of the district as provided in Section 50, 1256 and 80003,

shall be deemed for all purposes to be or have been the maintenance of a school within the boundaries of the district.

(Amended by Stats. 1976, Ch 1011.)

[ORIGINAL SECTION]

81006 The maintenance of a school by a district outside the boundaries of the district as provided in Sections 50, 1256, 80002 and 80003, shall be deemed for all purposes to be or have been the maintenance of a school within the boundaries of the district.

81007. The making of a contract by the governing board of a district as provided in Section 81003, shall be deemed to be or have been the maintenance of a school within the boundaries of the district except that the attendance of the students under such contract shall be reported by, and allowances because of the attendance of students under such a contract shall be made to, the district of attendance. For the purposes of this section, the average daily attendance of the district in which such students reside who are educated under such contract shall be the average daily attendance of the students educated under such contract.

81008. The governing board of a community college district coterminous with the boundaries of a city and county, may conduct classes at the airport and at the county jail which are owned and operated by the city and county, outside of the boundaries of the community college district.

81009. The governing board of any community college district may enter into agreements with any agency of the federal government for the construction of housing and other educational facilities for students and faculties of a community college maintained by the district if the governing board determines that the income, rent and charges for the use of the facilities will be sufficient in amount to repay the principal and interest on the amount secured from the federal government for the construction of the facilities. Whenever necessary to secure the full benefits of any federal statutes pertaining to loans or grants to educational institutions for housing and other educational facilities, the governing board may give such security as may be required and may comply with such conditions as may be imposed by the federal government.

## Article 2. School Sites

81031. The board of governors shall establish standards for school sites.

81032. The governing board of any community college district may, and when so directed by a vote of the voters within the district shall, purchase or improve school lands.

81033. The governing board of a community college district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 81131 shall have the site, or sites, under consideration investigated by competent personnel to ensure

that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. The investigation shall include such geological and soil engineering studies by competent personnel as are needed to provide an assessment of the nature of the site and potential for earthquake damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological characteristics are such that the construction effort required to make the site safe for occupancy is economically unfeasible. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

No school building shall be constructed or situated on the trace of an active geological fault. For purposes of this section, an active geological fault is defined as one along which surface rupture can be reasonably expected to occur within the life of the building.

Similar geological and soil engineering investigations shall be made as deemed necessary by the Department of General Services for the construction of any school building as defined in Section 81131 or, if the estimated cost exceeds ten thousand dollars (\$10,000), the reconstruction or alteration of or addition to any such school building for work which alters structural elements. No such study need be made if the site or sites under consideration have been the subject of adequate prior study.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services and the board of governors pursuant to Article 7 (commencing with Section 81130) of Chapter 1 of this part. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

81034. The reconstruction of any school on all or a portion of a site which has been used for public school purposes uninterruptedly since prior to 1890 may be financed through the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972 (Chapter 19 (commencing with Section 17400) of Part 8 of Division 1 of Title 1), if the legal title to such site or a portion thereof is held either by: (a) a city school district, or (b) a charter city, and a city school district has obtained or is in the process of obtaining a lease of not less than 50 years on such site or portion thereof from the charter city.

81035. To promote the safety of students and comprehensive community planning the governing board of each district before acquiring title to property for a new school site or for an addition to a present school site, shall give the planning commission having jurisdiction notice in writing of the proposed acquisition. The

planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report of the investigation and its recommendations concerning acquisition of the site.

The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, or for an addition to a present school site, the governing board of the district shall not acquire title to the property until 30 days after the commission's report is received.

81036. To promote the safety of students, comprehensive community planning, and greater educational usefulness of school sites, the governing board of each community college district, if the proposed site is within two miles, measured by air line, of that point on an airport boundary which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new school site or for an addition to a present site, shall give the board of governors notice in writing of the proposed acquisition and shall submit any information required by the board of governors.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport boundary which is nearest the site, the board of governors shall notify the Department of Aeronautics, in writing, of the proposed acquisition. The Department of Aeronautics shall make an investigation and report to the board of governors within 25 days after receipt of the notice. If the Department of Aeronautics is no longer in operation, the board of governors shall, in lieu of notifying the Department of Aeronautics, notify the Federal Aviation Administration or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the authority or other agency such information or assistance as it may desire to give.

The board of governors shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the board of governors has been received. If the report does not favor the acquisition of the property for a school site or an addition to a present school site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the board of governors' report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the community college district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

81037. Notwithstanding the provisions of Section 81036 immediately after receiving notice of a proposed acquisition of property which is within two miles, measured by air line, of that

point on an airport boundary which is nearest the site, the board of governors shall notify the Department of Aeronautics, in writing, of the proposed acquisition. The Department of Aeronautics shall make an investigation and report to the board of governors within 25 days after receipt of the notice. As part of such investigation the Department of Aeronautics shall give notice thereof to the owner and operator of such airport who shall be afforded the opportunity to comment upon the proposed school site.

Notwithstanding the provisions of Section 81036, if the report of the board of governors required by that section does not favor the acquisition of the property for a school site, or an addition to a present school site, the governing body shall not acquire title to the property until 30 days after the board of governors' report is received and until the board of governors' report has been read at a public hearing duly called after 10 days' notice by publication in a newspaper of general circulation within the community college district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

81038. If, with respect to a proposed site located within two miles of an operative airport runway, the report of the board of governors submitted to a community college district governing board under Section 81036 or Section 81037 does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Department of Aeronautics, no state agency or officer shall grant, apportion, or allow to such community college district for expenditure in connection with that site, any state funds otherwise made available under any state law whatever for school site acquisition or school building construction, or for expansion of existing sites and buildings, and no funds of the community college district or of the county in which the district lies shall be expended for such purposes; provided that the provisions of this section shall not be applicable to sites acquired prior to January 1, 1966, nor to any additions or extensions to such sites.

If the recommendation of the Department of Aeronautics is unfavorable, such recommendation shall not be overruled without the express approval of the board of governors and the State Allocation Board.

81039. No action undertaken by the board of governors or by any other state agency or by any political subdivision pursuant to this chapter, or in compliance with this chapter, shall be construed to affect any rights arising under the provisions of Section 19 of Article I of the California Constitution.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

81039 No action undertaken by the board of governors or by any other state agency or by any political subdivision pursuant to this chapter, or in compliance with this chapter, shall be construed to affect any rights arising under the provisions of Section 14 of Article I of the California Constitution

81040. The governing board of any community college district may acquire and pay for an option upon a school site. The option agreement may provide that if the option is not exercised by the district during the period for which it is granted that, upon an additional payment by the district, made on or before the last day of such period, the option may be extended for a further period. Any such option agreement may contain provisions for additional successive renewals.

Before acquiring any such option the governing board shall comply with Sections 81035 and 81036.

81041. Where a city, district, or other political corporation or subdivision of the state is authorized by law to furnish sewerage, water, or other utility facilities to a community college district and is not required to provide for the installation thereof to such community colleges district at its own expense, it may enter into an agreement with such district whereby the cost of installation will be paid by the district under such terms as the parties may agree to, with reimbursement from charges made or to be made to other users of such facilities as may be agreed upon between the parties, save insofar as other provisions of law control the terms of such reimbursement. Any agreement made prior to September 11, 1957, between a community college district and any of the aforesaid entities, which is otherwise in accordance with this section shall be deemed to be as valid and effective as if such agreement had been entered into subsequent to September 11, 1957.

The governing body of any entity mentioned in the preceding paragraph may by contract reimburse a community college district for such portion of such utility facilities as it deems constructed for the benefit of or usable by persons outside of the school site, provided such facilities are dedicated by the district to the public. Such contract shall provide that the governing body may collect from any person using such facilities, for the benefit of property not within the school site, a reasonable charge for such use. The term "person" herein includes districts formed for the purpose of constructing or maintaining sewers.

81043. The governing board of a community college district may acquire a site for a school building contiguous to the boundaries of the district and upon the acquisition of such site it shall become a part of the district. The site shall not be acquired until the county committee on district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it. The power of eminent domain may be used for the purposes of this section.

A school site is contiguous for the purpose of this section although separated from the boundaries of the district by a road, street,

stream, or other natural or artificial barrier or right-of-way.

### Article 3. Powers and Duties of Board of Governors

81050. The board of governors shall establish and make rules and regulations needed for the expeditious handling of the work required to carry out the purposes of this article.

81051. All money collected by the board of governors under the provisions of this article shall be available for the use of the board of governors pursuant to appropriations for such use as may from time to time be made by the Legislature.

### Article 4. Constructing School Buildings

81060. The governing board of a community college district may, and when directed by a vote of the district shall, build and maintain a schoolhouse.

81061. In bidding on contracts to be made pursuant to Section 81526, bidders may include in their bids abstractions of their quotations indicating the pricing structure used to compute the annual lease or rental payments for the sole purpose of identifying that portion of each annual lease or rental payment which may represent tax exemption reimbursement to the vendor, lessor or to their assignees.

81062. The governing board of a community college district, whenever in its judgment it is desirable to do so, may establish additional colleges in the district.

81063. The governing board of a community college district may purchase property and construct and equip buildings in an area after the legal action has been taken that will result in annexation of the area to the district, but before the annexation has become effective.

81064. The provisions of Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of this chapter do not apply to an offsite building during the time such building is used wholly or in part for community college purposes if such building is neither owned by a community college district or leased by a community college district under a lease containing an option to purchase such building; provided, however, that this section shall not affect the validity of any action taken pursuant to any provision of Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of this chapter prior to the effective date of enactment of this section. For the purposes of this section an "offsite building" is a building which is situated on land which is neither owned by a community college district nor leased by a community college district under a lease containing an option to purchase such land.

## Article 5. Factory-Built Buildings

81080. It is the intent of this article to provide an alternative procedure to Article 7 (commencing with Section 81130) of this chapter for the construction and installation of factory-built school buildings not over 1,000 square feet in area designed or intended for use as school buildings. As used in this article, a "factory-built building" means any building designed or intended for use as a school building which is either wholly manufactured or is in substantial part manufactured at an offsite location in accordance with standards prescribed by the Department of General Services, to be assembled or erected on a school site. Any such building purchased or leased by a community college district shall be deemed to be the construction or alteration of a school building as those terms are used in Article 6 (commencing with Section 81100) and Article 7 (commencing with Section 81130) of this chapter, and all of the provisions of each of those articles, not inconsistent with the provisions of this article, shall apply with respect to factory-built buildings designed or intended for use as school buildings.

81081. The Department of General Services shall adopt standards as to the safety of design and construction of factory-built buildings for use as school buildings, and shall prescribe procedures for the plans, specifications, methods of construction, and estimates of cost of a factory-built school building to be submitted to the department for approval as provided in Section 81082. Such standards shall comply with but not be limited by the provisions of Article 6 (commencing with Section 81100) and Article 7 (commencing with Section 81130) of this chapter.

81082. A manufacturer of factory-built buildings designed or intended for use as school buildings shall submit to the Department of General Services and the board of governors for approval, its plans, specifications, methods of construction, and estimates of cost of such buildings. At the same time the manufacturer shall pay to the Department of General Services a deposit to be applied toward the actual expenses in an amount as determined by the Department of General Services based on the estimated cost of such factory-built buildings, but not exceeding 0.5 percent of such estimated cost. The minimum deposit in any case shall be fifty dollars (\$50). The manufacturer shall reimburse the Department of General Services and the board of governors for the actual expenses incurred by those departments in the review of such plans and specifications.

All fees received by the Department of General Services pursuant to this article are subject to the provisions of Section 81137.

81083. All plans, specifications and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and

Professions Code, and the supervision of the work of construction in the factory shall be under the responsible charge of such an architect or structural engineer.

81084. The Department of General Services, in accordance with standards and procedures adopted pursuant to Section 81081, and as such standards and procedures may thereafter be modified, shall either approve or reject such plans, specifications, and methods of construction. Approval shall not be given unless such plans, specifications, and methods of construction are in accordance with standards adopted by the department pursuant to Section 81081. The department may establish procedures for the inspection of the facilities and manufacturing processes of a manufacturer to determine the manufacturer's ability to produce factory-built school buildings in accordance with the plans, specifications, and methods of construction which the manufacturer has submitted to the department. The Department of General Services shall notify the board of governors of its approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building.

81085. The Department of General Services shall provide for competent, adequate, and continuous inspection during construction in the factory to insure that all work has been performed and materials used and installed, in every particular, in accordance with the approved plans and specifications. The manufacturer shall reimburse the department for the costs incurred for such inspection as determined by the department.

81086. From time to time, as the work of construction in the factory progresses and whenever the Department of General Services requires, the certified architect or structural engineer in responsible charge of the supervision of the work of construction in the factory, the inspector on the work, and the manufacturer shall each make to the Department of General Services a report, duly verified by him, upon a form prescribed by the Department of General Services, showing, of his own personal knowledge, that the work during the period covered by the report has been performed, and materials used and installed, in every particular, in accordance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the Department of General Services.

81087. Upon the Department of General Services' approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building, a community college district, whenever it is otherwise required by any of the provisions of Article 6 (commencing with Section 81100), or Article 7 (commencing with Section 81130) of this chapter to submit to the Department of General Services or to the board of governors the plans and specifications for the construction of a school building may, instead, include in its application for approval to each of such departments a notification that it intends to utilize such factory-built school

building. The plans and specifications for the factory-built building to be utilized shall be submitted with the application and notification for identification purposes. Before granting its approval for the use of such buildings, the Department of General Services shall insure that the plans, specifications, and methods of construction of such buildings have been approved and are in accordance with standards adopted by the department pursuant to Section 81081 which are in effect at the time such application for approval is passed upon by the department. Whenever a community college district complies with the alternative procedure prescribed by this section it shall not be required to pay the filing fee prescribed by Sections 81106 and 81136, except that a fee shall be charged for onsite work pursuant to Section 81088. If the submitted plans and specifications have not been previously approved the application shall be rejected. In such case a new application together with required documents shall be filed for approval of plans and specifications by either the manufacturer pursuant to the provisions of Section 81082 or by the district pursuant to the provisions of Article 7 (commencing with Section 81130) of this chapter.

81088. Whenever a community college district has contracted for the purchase or lease of a factory-built school building and where such building is to be supported by foundations, underpinning, pedestals, or similar type elements which extend more than 18 inches above natural grade at any point, or on temporary blocks or jacks of any height, all the provisions of Article 7 (commencing with Section 81130) of this chapter shall apply to the design and construction of onsite work except that, for fee purposes, only the estimated cost of onsite work need be considered. The minimum amount in any case shall be fifty dollars (\$50).

81089. The provisions of Sections 81105, 81108, 81109, 81136, 81138, and 81141 shall not apply with respect to the manufacture, sale, or lease of factory-built school buildings if the provisions of this article are otherwise complied with.

81090. The provisions of Sections 81134, 81138, 81140, 81141, and 81143 shall not apply with respect to the design and construction of onsite work except where required by the provisions of Section 81088.

#### Article 6. Plans

81100. As used in Sections 81100 to 81106, inclusive, "school buildings" refers to only one-story schoolhouses of not more than nine classrooms.

81101. The board of governors shall:

(a) Establish a pool of duplicate plans for school buildings appropriate for community college districts in rural areas. The series shall be composed of plans designed to meet the requirements of community college districts located in rural areas of varying characteristics. The plans may include landscape suggestions.

(b) Provide specifications for the design and construction of such school buildings.

81102. Any community college district may request sets of such plans and specifications appropriate for use in constructing a school building of the type desired by the district. Such plans and specifications shall be furnished to the district subject to the payment of the actual expense incurred by the board of governors, but such expense shall not exceed more than 2 percent of the total cost of the project. Any payments received for such plans and specifications shall be paid into the State Treasury to the credit of the General Fund.

81103. The plans and specifications for any school building as defined in Section 81131, together with estimates of cost, shall be submitted by the board to the Department of General Services for approval.

81104. All provisions of Sections 81130 to 81145, inclusive, are made applicable to school buildings as defined in Section 81131 constructed from plans and specifications furnished under Sections 81100 to 81106, inclusive, except as otherwise provided in the latter sections.

81105. The district shall furnish its own architect or structural engineer, or both, for necessary structural engineering and supervision of construction.

81106. The governing board of a community college district shall, before letting any contract for the construction of a school building as defined in Section 81131 according to such plans and specifications, file a set of the plans and specifications with the Department of General Services accompanied by a fee in the amount fixed by Section 81156.

81107. Except in cities having boards of education, the superintendent of schools of each county shall pass upon and approve or reject all plans for schoolhouses. To enable him to do so, the governing board, before adopting any plans for school buildings, shall submit the plans to him for his approval.

81108. Any contract entered into by and between the governing board of any community college district and any certified architect or structural engineer pursuant to Section 81138 shall provide that all plans, specifications and estimates prepared pursuant thereto shall be and remain the property of the district.

81109. The governing board of a community college district shall, upon completion of any school building let pursuant to Section 81130 to 81145, inclusive, file with the Department of General Services on an ozalid type reproducible duplicate set of architect plans for the new school building plant.

81110. The county superintendent of schools may appoint a director of school building planning, who shall be a person qualified by training, experience and demonstrated ability to supervise the building, construction and contracting business of the community college districts of the county having an average daily attendance of

less than 10,000. The director shall be responsible for the coordination of the building program of the school districts of the county having such average daily attendance and shall advise the governing boards and other employees of the districts with respect to the negotiation and performance of the school building construction contracts let by the governing boards of the districts.

81111. The county superintendent of schools of two or more contiguous counties may cooperate with each other and to that end may enter into agreements with each other for the appointment of a joint director of school building planning, and may do all things necessary or convenient to aid and cooperate in carrying out the provisions of Sections 81110 to 81113, inclusive.

81112. Before letting any contract for the preparation of plans and specifications for any construction or alteration of any school building, the governing board of any community college district having an average daily attendance of less than 10,000 shall consult the director of school building planning of the county and secure the benefit of his technical knowledge with respect to the negotiation and letting of any contract for the construction or alteration of a school building.

81113. If any community college district having an average daily attendance of less than 10,000 receives a final apportionment of state school building aid funds under Sections 16000 to 16207, inclusive, the governing board of such district shall consult the director of school building planning on all matters relating to the construction of the project for which the apportionment was granted until final completion of the project.

#### Article 7. Approvals

81130. The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds ten thousand dollars (\$10,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building regulations published in the State Building Standards Code, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a community college district to perform work with its own forces in excess of the limitations set forth in Sections 81640 and 81649.

81131. "School building" as used in this article means and includes any building used, or designed to be used, for community college purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any district of any kind within the state, or by any regional occupational center or program created by or authorized to

act by an agreement under joint exercise of power, or by the United States government, or any agency thereof.

81131.4. Any school building, as defined in Section 81131, operated by a county official, board, or commission which on the effective date of this section is in violation of this article, where compliance therewith was otherwise required, may be continued in use as a school building after June 30, 1975, provided that no such building shall be operated after that date unless such county official, board, or commission requests and obtains from the State Allocation Board authority for use of such building for a specific period after such date.

Concurrent with such request such county official, board, or commission shall file with the State Allocation Board a statement or resolution declaring an intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement.

The State Allocation Board shall not authorize such county official, board, or commission to use such building after June 30, 1975, unless it has first determined that the affected authority has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and the contract has been let for any phase of, and work commenced on, such project.

In no event shall the State Allocation Board authorize the use of such unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

81131.5. Where the primary use of either a building or complex within which such building is situated, operated by an official or board of a city, city and county or county, is for purposes other than educational, such as but not limited to correctional, forestry, or hospital purposes, such building shall not be considered to be a "school building" within the meaning of Section 81131 notwithstanding any educational use thereof incidental to such primary purpose.

81132. "Construction or alteration" as used in this article includes any construction, reconstruction, or alteration of, or addition to, any school building.

81133. The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds ten thousand dollars (\$10,000), the alteration of any school building. To enable it to do so, the governing board of each community college district and any other school authority before adopting any plans for such school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article.

81134. Before letting any contract for any construction or alteration of any such school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall be first had and obtained.

81135. In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computations, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

81136. The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost, and such fee shall not exceed one-half of 1 percent of the estimated cost.

The minimum fee in any case shall be fifty dollars (\$50). If the actual cost exceeds the estimated cost by more than 10 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

81137. All fees shall be paid into the State Treasury and credited to the Division of Architecture Public Building Fund, which fund is continued in existence and is retitled the Architecture Public Building Fund, and are available without regard to fiscal years for the use of the Department of General Services, subject to approval of the Department of Finance, in carrying out the provisions of this article and Article 5 (commencing with Section 81080).

Adjustments in the amounts of the fees, as determined by the Department of General Services and approved by the Department of Finance, will be made within the limits set in Sections 81082 and 81136 in order to maintain a reasonable working balance in the fund.

81138. All plans, specifications, and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer, except that where plans, specifications, and estimates for alterations or repairs do not involve architectural or structural changes said plans, specifications, and estimates may be prepared and work of construction may be observed by a professional engineer duly qualified to perform such services and holding a valid certificate under Chapter 7 of Division 3 of the Business and Professions Code for performance of services in that branch of engineering in which said plans, specifications, and estimates and work of construction are applicable.

81139. As of January 1, 1976, the persons employed as inspectors of record to inspect the construction, reconstruction or alteration of any school building shall be either (a) persons who are registered as construction inspectors in the divisions in which they are to be used, as defined by Section 9101 of the Business and Professions Code or (b) persons who are regularly employed for building code enforcement by the local agency having responsibility for such inspection, and are qualified to perform such inspections under the

civil service laws or regulations of such local agency.

Persons employed as assistants to inspectors of record shall be registered construction inspectors or shall be enrolled as inspectors-in-training in the divisions in which they are to be used, as defined by Section 9101.1 of the Business and Professions Code. This section shall not apply to any architect, structural engineer, civil engineer, land surveyor, mechanical engineer, engineering geologist, or electrical engineer, who holds a valid certificate of registration in this state, insofar as he is practicing within the provisions of the law under which he is registered. This section shall not apply to an inspector approved by the Office of Architecture and Construction and employed pursuant to a particular building contract prior to January 1, 1976, during the performance of that building contract.

81140. No contract for the construction or alteration of any school building, made or executed by the governing board of any community college district or other public board, body, or officer otherwise vested with authority to make or execute such a contract, is valid, and no public money shall be paid for any work done under such a contract or for any labor or materials furnished in constructing or altering any such building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has first been had and obtained from the Department of General Services.

81141. From time to time, as the work of construction or alteration progresses and whenever the Department of General Services requires, the licensed architect or structural engineer in charge of observation of construction or registered engineer in charge of observation of other work, the inspector on the work, and the contractor shall each make to the Department of General Services a report, duly verified by him, upon a form prescribed by the Department of General Services, based upon his own personal knowledge, indicating that the work during the period covered by the report has been performed and materials have been used and installed, in every material respect, in compliance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the Department of General Services.

The term "personal knowledge" as used in this section and as applied to the architect, and the registered engineer, means the personal knowledge which is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also which is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between the above-mentioned periodic visits of the architect or the registered engineer. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the inspector means

the actual personal knowledge which is obtained from his personal continuous inspection of the work of construction in all stages of its progress at the site where he is responsible for inspection and, when work is carried out away from the site, that personal knowledge which is obtained from the reporting of others on the testing or inspection of materials and workmanship for compliance with plans, specifications or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the contractor means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

81142. The Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable effectually to carry out the provisions of this article.

81143. The State Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the students, the instructors, and the public. The community college district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the architect or structural engineer as the board may direct, and be responsible to the governing board.

81144. Any person who violates any of the provisions of this article or makes any false statement in any verified report or affidavit required pursuant to this article, is guilty of a felony.

81145. Upon written request by the governing board of any community college district or upon written request by at least 10 percent of the parents having students enrolled in any community college district as certified to by the county superintendent of schools, the Department of General Services shall make an examination and report on the structural condition of any public school building of the district, subject to the payment by the governing board of the actual expenses incurred by the Department of General Services. Payment of the expenses may be waived by the Department of General Services on recommendation of the board of governors when it appears to it that the district in which the public school building is located cannot afford to pay them.

81146. Any public school building which has been approved by the Department of General Services for occupancy shall be deemed to meet the local building requirements for use as a private school.

## Article 8. Fitness for Occupancy

81160. The Legislature finds and declares as follows:

(a) By an urgency act (Stats. 1933, Ch. 59), the Legislature at the 1933 General Session established reasonable minimum standards for the design and construction of new school buildings, as now defined in Section 81131. Although it was not required that then existing school buildings incorporate these standards, it was intended by the Legislature that in the intervening years continuous progress would be made in the repair, reconstruction or replacement of such school buildings.

(b) Progress toward this end has been outstanding in some community college districts. In other community college districts the matter has been ignored, thus prolonging a dual level of safety for the community college students of California.

81161. It is the intent of the Legislature to re-examine the progress under this article from time to time. To enable it to do so, and to expedite the provision of safe educational facilities for California community college students, the Legislature intends that the governing board of each community college district adopt a plan for the orderly repair, reconstruction, or replacement of school buildings not repaired, reconstructed, or replaced in accordance with this article.

81162. The governing board of any community college district which had in use for school purposes any school buildings which were not constructed under approved plans and the supervision and inspection requirements of Article 7 (commencing with Section 81130) of this chapter shall have such buildings examined pursuant to this section and shall have completed on or before January 1, 1970, the examination, reporting and estimate requirements of this section and Section 81174.

Whenever an examination of the structural condition of any school building of a community college district has been made by the Department of General Services, or by any licensed structural engineer or licensed architect for the governing board of the district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law. The estimate shall be based on current costs and may include other costs to reflect modern educational needs. Also an estimate of the cost of replacement based on the standards established by the State Allocation Board for area per student and cost per square foot,

shall be made and reported.

The report required by this section shall include a statement that each of the buildings examined is safe or unsafe for school use. For the purpose of this statement the sole consideration shall be protection of life and the prevention of personal injury at a level of safety equivalent to that established by Article 7 (commencing with Section 81130) of this chapter and the rules and regulations adopted thereunder, disregarding, insofar as possible, such building damage not jeopardizing life which would be expected from one disturbance of nature of the intensity used for design purposes in said rules and regulations.

The governing board, utilizing the information acquired from the examination and report developed pursuant to this section, shall establish a system of priorities for the repair, reconstruction, or replacement of unsafe school buildings.

81163. Whenever an examination of the geological characteristics of the site on which any public school building constructed prior to 1957 is situated has been made at the request of the governing board by a licensed geologist prior to the effective date of the act which enacted this section, and the report shows that the school building is situated on the trace of an active geological fault along which it can reasonably be expected that surface rupture will occur within the life of such building, such building shall be deemed structurally unsafe for school use. Such building shall be subject to replacement at another location in accordance with the procedure provided for repair, reconstruction, or replacement in Section 81162 as though it had not been constructed in conformance with Article 7 (commencing with Section 81130) of this chapter.

This section shall remain in effect only until July 1, 1976, and as of that date is repealed.

81164. "School building" as used in this article excludes any building which is used for community college district administrative buildings located on a site separate from the community college campuses of the district, and into which students are not required to enter.

81165. "School building" as used in this article excludes any building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and off-campus buildings utilized by adult schools or community colleges for voluntary adult education courses or registered apprentice courses.

"School building" as used in this article excludes any building owned or occupied by a unified school district, high school district, or a county superintendent of schools, and which on July 1, 1975, and continuously since then, was used exclusively for adult education purposes.

If any building so excluded was not constructed in accordance with Article 7 (commencing with Section 81130) of this chapter and was not repaired, reconstructed, or replaced in accordance with this

article, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

81166. After securing the estimates, the governing board of the district shall, if the district has sufficient funds to its credit to permit the repairs, reconstruction, or replacement, and such funds do not represent the proceeds of a bond issue previously authorized by the electorate of the district for other purposes, immediately proceed in such manner as is authorized by law to secure the necessary authorization for the expenditure of the funds. If authorization to expend the funds is not required by law, the board shall within six months from the receipt of the report of the examination of the building or buildings initiate action for the repair, reconstruction, or replacement of the building or buildings.

81167. If the district does not have sufficient funds available to permit the governing board of the district to proceed with the repair, reconstruction, or replacement of the building or buildings, the governing board shall within 12 months after receiving the report of the examination of the building or buildings, call an election. At such election there shall be submitted to the qualified electors of the district either proposition (a) or (b), or both propositions (a) and (b), as determined by the governing board of the district, as follows:

(a) (1) Authorization of bonds of the district in an amount sufficient, as shown by the estimate, to provide funds for the repair, or reconstruction, of the building or buildings, in accordance with the governing board's plan; or

(2) Authorization of bonds of the district in an amount sufficient as shown by the estimate obtained by the district to construct new school facilities on the site of one or more of the unfit building or buildings, or on other sites, in accordance with the governing board's plan.

(b) Authorization of the increase of the maximum tax rate of the district for such length of time as will permit raising sufficient funds by district taxation for the repair, reconstruction, or replacement of the building in accordance with the governing board's plan.

In connection with the submission of either proposition (a) or (b), or both propositions (a) and (b), the governing board of the district may submit to the qualified electors of the district a proposition for the abandonment of the building and the use of tents or other temporary structures for school purposes in lieu of the building abandoned.

Neither of the propositions under (a) and (b) shall be required to make provision for financing of the entire repair, reconstruction or replacement program of the district, but shall at least provide funds for commencement of such repair, reconstruction or replacement, consistent with the governing board's plan.

81168. Where authorization of the qualified electors for the expenditure of the funds is required under any law of this state, the proposition to authorize the expenditure shall be submitted at the

election.

81169. The resolution ordering and the notice calling the election shall specify the building or buildings initially proposed to be repaired, reconstructed, or replaced, and those proposed to be repaired, reconstructed, or replaced pursuant to the governing board's plan.

81170. The election shall be called, held and conducted in the manner provided in Chapter 3 (commencing with Section 5300) of Part 4 of Division 1 of Title 1. Each elector shall be entitled to vote upon each of the propositions.

81171. If, at the election, the requisite number of voters cast their ballots in favor of the issuance of bonds, the bonds shall be issued and sold in the manner provided by law for the issuance and sale of bonds of the district, and the proceeds used for the purpose or purposes specified in the resolution or notice calling the election. In such event, the results of the voting upon the proposition calling for an increase in the maximum tax rate of the district submitted at the election shall be disregarded.

81172. If, at the election, issuance of bonds of the district is not authorized, and if, on the proposition of increasing the tax rate of the district the number of votes cast in the affirmative is sufficient to authorize an increase in the tax rate of the district, the increase shall be authorized, and the governing board shall proceed to increase the rate and to use the proceeds of the increased tax solely for the purpose or purposes specified in the resolution or notice calling the election.

81173. If at the election, no proposition which is required to be submitted to the qualified electors is approved and authorized, the governing board of the district shall, in accordance with the same or a modified plan, submit either the proposition to authorize the issuance of bonds, or the proposition to increase the tax rate, or both, no later than five years following the last submission of either or both of these propositions to the qualified electors of the district. The result of the voting on the proposition to authorize the use of tents or other temporary structures shall be considered by the governing board as an advisory vote, and the tents or other temporary structures may be used for school purposes to the extent that such use is deemed necessary by the governing board.

81174. The governing board of each community college district required to act pursuant to Section 81162 shall, within 12 months after receiving the report of the examination of the building or buildings, place on file with the board of governors a summary of all reports of examinations and estimates relating to school buildings which have not been repaired, reconstructed or replaced in accordance with law, including a summary of previous elections held and actions taken concerning this matter, if any, and a statement of intentions to repair, reconstruct or replace such buildings which shall constitute the governing board's plan. The plan shall include the approximate date it is contemplated that such actions to repair,

reconstruct or replace each such building will occur.

81175. The board of governors shall summarize and report to the Legislature every two years, commencing with the 1968 Regular Session, the data placed on file with the board pursuant to Section 81174.

81176. Except as provided in Section 81177, nothing in this article shall be construed as relieving any member of the governing board of a community college district of any liability for injury to persons or damage to property imposed by law.

81177. No member of the governing board of a community college district shall be held personally liable for injury to persons or damage to property resulting from the fact that a school building was not constructed under the requirements of Article 7 (commencing with Section 81130) of this chapter, if such governing board complies with the provisions of this article. Such limit on liability shall commence when such governing board initiates action to comply with the provisions of Section 81162.

A licensed structural engineer or licensed architect employed by a governing board to examine any school building under this article shall not be held personally liable for injury to persons or damage to property as a result of the structural inadequacy and failure of a building, provided he has exercised normal professional diligence in carrying out his functions under Article 7 (commencing with Section 81130) of this chapter and the provisions of this article.

81178. No school building examined and found to be unsafe for school use pursuant to Section 81162 and not repaired or reconstructed in accordance with the provisions of this article, and no school building which has never met the requirements of Article 7 (commencing with Section 81130), of this chapter, shall be used as a school building for community college purposes after June 30, 1975, except as permitted by Article 15 (commencing with Section 81520) of this chapter, unless the governing board of the community college district has requested and obtained from the State Allocation Board authority for use of such building for a specific period beyond such date. Prior to requesting such authority, the governing board shall adopt a resolution declaring the board's intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement. The State Allocation Board shall not authorize any community college district to use such a building beyond June 30, 1975, unless it has first determined that the district has already proceeded with a plan of total repair, reconstruction or replacement in a timely manner and a contract has been let for any phase of, and work commenced on, such project. In no event shall the State Allocation Board authorize the use of such unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

81179. Notwithstanding any other provision of this article or Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1, whenever a community college district does

not have funds available to repair, reconstruct, or replace the school buildings referred to in this article or Section 16320, the community college district shall apply for such funds as may be necessary to accomplish such repair, reconstruction, or replacement pursuant to the provisions of Article 9. The school district shall also accept such funds as are disbursed to the district pursuant to Article 9, whether or not the funds constitute the maximum amount applied for, and shall repay such funds in accordance with the provisions of Article 9. In cases in which funds derived from a tax increase levied pursuant to Section 81180 or 81180.1 are utilized to match amounts disbursed to a school district under an apportionment made pursuant to Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1, such disbursement and repayment may be made without the necessity of a vote of the electorate of the district as prescribed in any provision of Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1.

81180. The governing board of a community college district may undertake corrective measures relating to earthquake safety recommended to the governing board pursuant to Section 81162 in connection with any school building under the jurisdiction of the governing board without compliance with the procedures otherwise prescribed by Section 81167.

The maximum rate of tax of any community college district for the fiscal years 1974-75 to 1976-77, inclusive, is hereby increased by such amount as will produce the amount necessary to have any school buildings examined as required by Section 81162 and to effect the corrective structural repairs, reconstruction or replacement relating to earthquake safety recommended pursuant to Section 81162, as shown by the budget of the district for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from revenue from the increase in the rate of tax provided by this section. The funds provided by such increase in the tax rate may be used to provide for the housing of students temporarily displaced by the repair, reconstruction, or replacement of school buildings required in order to meet earthquake safety standards.

The increase provided by this section shall not exceed a total increase of ten cents (\$0.10) for each one hundred dollars (\$100) of the assessed valuation of property within the district in each fiscal year, unless additional funds are specifically required by the district to match the state funds provided pursuant to Article 9 (commencing with Section 16310) of Chapter 8 of Part 10 of Division 1 of Title 1. If such additional funds are required by the district, the maximum increase in tax rate provided by this section may be increased by not to exceed an additional ten cents (\$0.10) for each one hundred dollars (\$100) of assessed valuation of property within the district in each fiscal year such additional funds are required pursuant to Article 9, prior to and including the 1973-74 fiscal year.

Such additional tax money may be levied in the 1974-75 fiscal year only if the State Allocation Board has first approved an application of the district pursuant to Article 9. After the 1974-75 fiscal year, any district which has levied the entire twenty-cent (\$.20) amount permitted by this section in the preceding fiscal year and has deposited in the State School Building Fund of the district, the proceeds derived therefrom as matching funds in an application or applications under Article 9 may levy the same twenty-cent (\$.20) tax or so much thereof as necessary for matching funds for an application or applications under Article 9 in any succeeding fiscal year, including, but not beyond, the 1976-77 fiscal year.

Any balance derived from the revenue of the increase in tax rate levied for matching purposes of Article 9, as herein provided, which is not expended under an application or applications approved pursuant to Article 9 at the completion of the construction project and approval of final costs thereof by the State Allocation Board shall be applied as a repayment of any apportionment heretofore or hereafter outstanding against the district under the provisions of Article 9.

This section shall remain operative only until July 1, 1978, and as of such date is repealed. This section shall remain in effect until such date regardless of the repeal or expiration of former Section 15517.

Notwithstanding the provisions of this section, the governing board shall comply with the provisions of Section 81167 whenever such compliance is necessary to continue the program of corrective structural repairs, reconstruction, or replacement required pursuant to the provisions of this article.

81180.5. Notwithstanding the provisions of Section 81180, a district having an approved application under the provisions of Section 16339.6 may levy a tax at the rate of twenty cents (\$.20) per one hundred dollars (\$100) of assessed valuation for the 1975-76 fiscal year only.

81181. Whenever the geological characteristics of a school site in which any public school building is located is subject to Section 81163, the governing board of the community college district may undertake corrective measures relating to earthquake safety recommended to the governing board pursuant to Section 81162 in connection with any school building under the jurisdiction of the governing board without compliance with the procedures otherwise prescribed by Section 81167.

The maximum rate of tax of any such community college district for the fiscal years 1974-75 and 1975-76 is hereby increased by such amount as will produce the amount necessary to have any school buildings, subject to Section 81163, examined as required by Section 81162 and to effect the corrective structural replacement relating to earthquake safety recommended pursuant to Sections 81162 and 81163, as shown by the budget of the district for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding

school year derived from revenue from the increase in the rate of tax provided by this section. The funds provided by such increase in the tax rate may be used to provide for the housing of students temporarily displaced by the replacement of school buildings required in order to meet earthquake safety standards.

The increase provided by this section shall not exceed a total increase of ten cents (\$.10) for each one hundred dollars (\$100) of the assessed valuation of property within the district in each fiscal year.

If at the end of any school year, there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance may be accumulated until the date specified in this section for the termination of its effect and shall be used exclusively for expenditures of the community college district for purposes of this section.

The increase in tax rate provided by this section shall not be deemed to be in addition to the increase provided by Section 81180. During any period in which both this section and Section 81180 are in effect and operative, this section shall be deemed alternative to Section 81180 in any instance in which both are applicable to any particular factual situation.

This section shall remain in effect until July 1, 1976, and as of that date is repealed. This section shall remain in effect until such date regardless of the repeal or expiration of Section 81180.

Notwithstanding the provisions of this section, the governing board shall comply with the provisions of Section 81167 whenever such compliance is necessary to continue the program of corrective structural repairs, reconstruction, or replacement required pursuant to the provisions of this article.

81182. Any revenue derived from an increase in the rate of tax provided by Section 81180 prior to July 1, 1975, and which is unexpended on that date, may be used after July 1, 1975, by the governing board of a community college district to complete the corrective structural repair, reconstruction, or replacement of any school building subject to Section 81162 which had not been completed on that date.

## CHAPTER 2. PROPERTY—SALE, LEASE, USE, AND EXCHANGE

### Article 1. Conveyances

81300. The governing board of a community college district shall receive in the name of the district conveyances for all property received and purchased by it, and shall make in the name of the district conveyances of all property belonging to the district and sold by it.

81301. The governing board of a community college district shall have the power to execute and deliver quitclaim deeds, either with or without consideration to the owners of real property adjacent to

any real property owned by the district, for the purpose of removing defects in and otherwise clearing up the title to such adjacent real property.

## Article 2. Dedication of Real Property

81310. The governing board of a community college district may, pursuant to this article, dedicate or convey to the state, or any political subdivision or municipal corporation thereof, for public street or highway purposes, either with or without consideration and without a vote of the electors of the district first being taken, any real property belonging to the district, either in fee or any lesser estate or interest therein, including abutter's right of access to any public street or highway; and may dedicate or convey to any public corporation, or private corporation engaged in the public utility business, without a vote of the electors of the district first being taken, an easement to lay, construct, reconstruct, maintain, and operate water, sewer, gas, or storm drain pipes or ditches, electric or telephone lines, and access roads used in connection therewith, over and upon any land belonging to the community college district, upon such terms and conditions as the parties thereto may agree.

81311. Before ordering the dedication or conveyance of any property the governing board shall in regular open meeting by a two-thirds vote of all its members adopt a resolution declaring its intention to dedicate or convey the property. The resolution shall describe the property proposed to be dedicated or conveyed in such manner as to identify it, and shall specify the purposes for which and the terms upon which it will be dedicated or conveyed, and shall fix a time not less than 10 days thereafter for a public meeting of the governing board to be held at its regular place of meeting for a public hearing upon the question of making the dedication or conveyance.

81312. Notice of adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the members of the board, or by a majority thereof, in three public places in the district not less than 10 days before the date of the meeting, and by publishing the notice once not less than five days before the date of the meeting in a newspaper of general circulation, published in the district, if there is one, or, if there is no such newspaper published in the district, then in a newspaper published in the county in which the district or any part thereof is situated and having a general circulation in the district.

81313. At the time and place fixed in the resolution for the meeting of the governing board the public hearing shall be held, and the governing board may at the meeting, or at any other meeting of the governing board held within 60 days thereafter, unless a protest is entered, adopt a resolution by a two-thirds vote of all its members authorizing and directing the president of the governing board, or any other presiding officer, or the secretary, or the members thereof, to execute a deed of dedication or conveyance of the property and

to deliver it. Upon the delivery and acceptance of the deed the dedication or conveyance is fully effective.

81314. A petition protesting against the proposed dedication or conveyance signed by at least 10 percent of the qualified electors of the district, as shown by the affidavit of one of the petitioners, may be filed with the governing board at the meeting held at the time and place fixed in the resolution. If a protest is filed, the governing board shall, before taking any further action on the proposed dedication or conveyance, submit the question of whether the proposed dedication or conveyance should be made, to the superintendent of schools of the county having jurisdiction over the district, whose decision is final. If the superintendent approves the proposed dedication or conveyance, the board may proceed as provided in Section 82533. If the superintendent of schools does not approve the proposed dedication or conveyance, no further proceedings shall be had thereon.

81315. Whenever community college districts are required to improve and dedicate real property to the centerline of streets or highways adjacent to a school site or forming an intersection at a school site location, and when such street or highway rights-of-way are being conveyed to the city or county or by the city or county to the community college district, the requirements of this article shall be deemed satisfied solely by posting a notice of intention to convey in an appropriate location before conveyance.

### Article 3. Leasing School Buildings

81330. Any community college district may enter into leases and agreements relating to real property and buildings to be used by the district pursuant to this article. As used in this article, "building" includes (a) one or more buildings located or to be located on one or more sites; (b) the remodeling of any building located on a site to be leased pursuant to this article; (c) onsite and offsite facilities; utilities or improvements which the governing board determines are necessary for the proper operation or function of the school facilities to be leased. It also includes the permanent improvement of school grounds. As used in this article, "site" includes one or more sites, and also may include any building or buildings located or to be located on a site.

81331. As used in this article "lease or agreement" shall include a lease purchase agreement.

81332. Before the governing board of a community college district enters into a lease or agreement pursuant to this article, it shall have available a site upon which a building to be used by the district may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites, and it shall have prepared and shall have adopted plans and specifications for such building which have been approved pursuant to Sections 81107 to 81109, and Sections 81130 to 81145, inclusive. A district has

a site available for the purposes of this section if it owns a site or if it has an option on a site which allows the community college district or the designee of the district to purchase the site. Any community college district may acquire and pay for an option containing such a provision.

81333. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 40 years.

81334. Sections 81360 to 81378, inclusive, shall not apply to leases made pursuant to this article.

81335. The governing board of a community college district may let, at a minimum rental of one dollar (\$1) a year, to any person, firm, or corporation any real property which belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the community college district during the term thereof, and provides that title to such building shall vest in the community college district at the expiration of such term. Such instrument may provide for the means or methods by which such title shall vest in the community college district prior to the expiration of such term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the community college district.

81336. The governing board of a community college district may enter into an agreement with any person, firm, or corporation under which such person, firm, or corporation shall construct, or provide for the construction of, a building to be used by the district upon a designated site and lease such building and site to the district. Such instrument shall provide that the title to such building and site shall vest in the district at the expiration of such lease, and may provide the means or method by which the title to the building and site shall vest in the district prior to the expiration of such lease, and shall contain such other terms and conditions as the governing board of the district deems to be in the best interest of the district.

The agreement entered into shall be with the lowest responsible bidder who shall give such security as the board requires. The board may reject all bids. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some paper of general circulation circulated in the county, a notice calling for bids, stating the proposed terms of the agreement and the time and place where bids will be opened.

81337. The governing board of a community college district shall call and hold an election, pursuant to Section 81338 or 81341, before or after entering a lease or agreement, as the case may be, except that if the lease or agreement does not affect an increase in the existing applicable maximum tax rate, the election requirements of this section shall not apply.

81338. Before entering into a lease or agreement pursuant to this article, the governing board of the district shall call, hold, and

conduct an election in the manner provided in Section 85112, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the \_\_\_\_\_ District purchase (a site, sites) prepare plans and specifications, [the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites and has prepared plans and specifications] and lease (a site and, sites and) (a building, buildings) to be constructed for use by the community college district [designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed \_\_\_\_\_, such increase to be in effect in the \_\_\_\_\_ District for the years 19\_\_ to \_\_\_\_\_, be authorized and the amount of such increase used solely and exclusively for such purposes?"

81339. The governing board of the district, if the district proposes at an election held pursuant to Section 81338 to lease more than one building, may include in the ballot measure used in the election a statement that the district reserves the right to lease less than all of the proposed buildings designated in the ballot measure. If such a statement is included in the ballot measure, the governing board may at any time thereafter determine to not lease one or more of the buildings included in the ballot measure, and such determination shall not breach any obligation of the district to the voters of the district.

81340. An election held pursuant to Section 81338 or Section 81341 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 2504 of the Elections Code.

81341. In lieu of calling an election pursuant to Section 81338, the governing board of a school district may call an election pursuant to this section. Within 10 days after the governing board has opened the proposals pursuant to Section 81345 or has adopted a resolution pursuant to Section 81345 it may accept a proposal, if proceeding under Section 81344, and execute the lease or agreement, and immediately thereafter call an election pursuant to this section.

The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 85112 except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the \_\_\_\_\_ District lease [a site (sites) and] a building [buildings] to be constructed for use by the district [designating the location of the site or sites on which the building or buildings will be constructed, and generally describing the building or buildings and the cost thereof], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed \_\_\_\_\_, such increase to be in effect in the \_\_\_\_\_ District for the years 19\_\_ to \_\_\_\_\_, be authorized and the amount of such increase used solely and exclusively for such purposes?"

81342. If, at the election held pursuant to Section 81338 or Section 81341, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article.

81342.5. Whenever the electors of a community college district, at an election held pursuant to Section 81338 or 81341, have approved an increase in the maximum tax rate of the district for the purpose of enabling the district to enter into a lease or agreement for a site or building, or both, and before such lease or agreement is entered into, or during the term of such lease or agreement, territory is taken from the district and annexed to or included in another district by any means, the acquiring district shall automatically assume and shall pay to the district from which the territory is transferred a proportionate share of any remaining payments due under the lease or agreement, as such payments become due, for so long as such lease or agreement runs.

The acquiring district's proportionate share shall be in the ratio which the total assessed valuation of taxable property in the transferred territory bore to the total assessed valuation of taxable property in the whole district from which the territory is transferred for the year immediately preceding the date on which the transfer became effective for all purposes.

This section shall be applicable only with respect to transfers of community college district territory which become effective for all purposes after June 4, 1975, and shall be applicable whether the election under Section 81338 or 81341 occurred prior to or after June 4, 1975.

81343. If the governing board of the district fails to enter into a lease pursuant to this article within three years after the result of an election, held pursuant to Section 81338, at which a majority of the votes cast favors the proposition submitted, the authorization for an increase in the maximum tax rate shall become void.

81344. After the governing board of a community college district has complied with Section 81332, it shall, in a regular open meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article. The resolution shall describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if such is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the community college district will lease the building or site and building, as the case may be, and shall state that the proposals submitted therefor shall designate the amount of rental, which shall be annual, semiannual, or monthly, to be paid by the community college district for the use of the building, or building and site, as the case may be. The resolution shall fix a time, not less than three weeks

thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to enter such a lease or agreement with the community college district will be received from any person, firm, or corporation, and considered by the governing board. Notice thereof shall be given in the manner provided in Section 81368.

At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to enter a lease or agreement and which are made by responsible bidders, the proposal which calls for the lowest rental shall be finally accepted, or the board shall reject all bids. The board is not required to accept a proposal, or else reject all bids, on the same day as that in which the proposals are opened.

81345. As an alternative to obtaining sealed proposals as required by Sections 81336 and 81344, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit corporation organized under Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code if the articles of incorporation or bylaws of the nonprofit corporation provide: (1) that no person shall be eligible to serve as a member or director of the nonprofit corporation except a person initially approved by resolution of the governing board of the community college district, and (2) that no part of the net earnings of the nonprofit corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the district. The resolution shall describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if such is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the community college district will lease the building, or building and site, as the case may be.

Any building constructed by a nonprofit corporation pursuant to a lease or agreement entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Chapter 3.5 (commencing with Section 4220) of Division 5 of Title 1 of the Government Code. Section 81350 of this code shall apply to such contract.

81346. Any bonds, notes, warrants or other evidences of indebtedness to be issued by a nonprofit corporation to finance the construction of a building pursuant to a lease or agreement entered

into pursuant to Section 81345 shall be sold pursuant to Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government Code.

81347. All such bonds, notes, warrants or other evidences of indebtedness referred to in Section 81346 and the interest thereon are exempt from all taxation in the state other than inheritance, gift and franchise taxes.

81348. Any building constructed for the use of a community college district pursuant to this article is subject to Sections 81130 to 81145, inclusive.

81349. For the purposes of Sections 15102 and 15106, 50 percent of any remaining payments for use of the building or site and building which would become due from the district under any leases and agreements entered into by the district pursuant to this article, if such leases and agreements were to run their full term, shall be considered outstanding bonded indebtedness.

81350. The governing board of the community college district shall ascertain the general prevailing rate of per diem wages in the locality in which the building is to be constructed for each craft, classification or type of workman needed for the construction of the building and shall specify in the resolution and in the notice, required by Section 81344, or in the resolution required by Section 81345 and in the lease or agreement made pursuant to this article, what the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality is for each craft, classification or type of workmen needed for the construction of the building. The holidays upon which such rate shall be paid need not be specified by the governing board, but shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification or type of workmen employed on the project.

In determining such rates, the governing board shall ascertain and consider the applicable wage rates established by collective bargaining agreements and such rates as may have been predetermined for federal public works, within the locality and in the nearest labor market area. Where such rates do not constitute the rates actually prevailing in the locality, the governing board shall obtain and consider further data from the labor organizations and employers or employer associations concerned, including the recognized collective bargaining representatives for the particular craft, classification or type of work involved. The rate fixed for each craft, classification or type of work shall not be less than the prevailing rate paid in such craft, classification or type of work.

Any agreement or lease entered into pursuant to this article shall require that such general prevailing rates will be paid. It shall also require that work performed by any workman employed upon the project in excess of eight hours during any one calendar day shall be permitted only upon compensation for all hours worked in excess of eight hours per day at not less than 1½ times the basic rate of pay.

There may also be included in leases or agreements entered into pursuant to this article any other requirements with respect to matters related to the subject of this section which the governing board deems necessary or desirable.

81351. The provisions of this article prevail over any provisions of law which conflict therewith.

81352. All acts and proceedings taken prior to August 27, 1974, by or on behalf of any district under this article, or under color of this article, for the authorization of an increase in the maximum tax rate of such district and for the leasing of a building or buildings for the purposes of the district are hereby confirmed, ratified, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such district and of any person, public officer, board, or agency, heretofore done or taken upon the question of the authorization of such tax rate increase or such leasing. Whenever an election has been called and held prior to the effective date of the enactment of this section, for the purpose of submitting to the voters of any district the question of an increase in the maximum tax rate of such district and for the leasing of a building or buildings for the purposes of the district, such election and all proceedings attendant thereon are hereby confirmed, ratified, validated, and declared to be legally effective for all purposes, and such tax rate increase, if authorized by the required vote and in accordance with the proceedings heretofore taken, shall be a legal and valid authorization, in accordance with its terms, and any tax heretofore or hereafter levied pursuant to such authorization shall be legal and valid. The foregoing provisions of this section shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in this article. The foregoing provisions of this section shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the California and United States Constitutions. The foregoing provisions of this section shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this section, and shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

In any district in which an election was called and held prior to August 27, 1974, in which the voters of such district authorized an increase in the maximum tax rate of such district and the leasing of a building or buildings for the purposes of the district, the law in effect at the date of the district election shall govern the terms of the lease, the terms of the sale of related bonds, notes, and warrants, and the school district's maximum bonded indebtedness.

81353. The governing board of a community college district may enter into an agreement pursuant to this article without complying with Sections 81337 to 81343, inclusive, subject to the following conditions, to be ascertained and approved prior to execution of any lease or agreement, by the Department of Finance:

(a) That the agreement be limited to providing dormitory facilities to be made available to students enrolled in grades 13 and 14 at any community college maintained by the district.

(b) That revenues to be produced from the dormitory facilities will be adequate to meet all of the district's obligations thereunder throughout the term thereof.

(c) That under the entire transaction no lien, charge, or liability is to arise against the State of California, against the governing board of the district, or against any of the property or funds of the state, district or governing board.

81354. (a) This section shall apply only to a community college district in which the electorate authorizes an increase in the maximum tax rate of the district pursuant to the provisions of this article for the lease of one or more schools, and there exists at the time of such election on a site owned by the district a school facility not owned by the district meeting all of the requirements of Article 7 (commencing with Section 81130) of this chapter, which site and school facility are designated and described in the ballot proposition approved by the voters.

(b) Notwithstanding any other provisions of law, a community college district may lease from a California nonprofit corporation such existing school and may pay rentals therefor from funds derived from the increase in the maximum tax rate approved by the voters at such election; provided, further that the purchase price of the school paid by the nonprofit corporation to the owners of the school shall not exceed the actual audited cost of construction thereof including actual interest paid on money borrowed to finance such construction. Prior to the purchase of the school by the nonprofit corporation, an independent certified public accountant shall be retained by the school district to verify the actual cost of construction and any interest paid to finance such construction, and the nonprofit corporation may conclusively rely upon any certificate or opinion setting forth such actual cost of construction and such interest prepared by the independent certified public accountant.

(c) A community college district, the electorate of which, prior to the effective date of this section, authorized an increase in the maximum tax rate in the manner, for the purposes, and under the circumstances specified in subdivision (a), may avail itself of the authority afforded by subdivision (b).

#### Article 4. Sale or Lease of Real Property

81360. The governing board of a community college district may sell any real property belonging to the district or may lease for a term

not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, and shall be made in the manner provided by this article.

81360.5. The sale of real property pursuant to this article shall be subject to the provisions of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

81361. The governing board of any community college district which has by majority vote established a standard rate or rates for the lease pursuant to this article of its real property may by majority vote delegate to such officer or employee as the governing board may designate, the power to enter into leases, for and in behalf of the district, of any real property of the district, with respect to which real property the district has received only one sealed proposal which conforms with the existing standard rate or rates, from a responsible bidder and no oral bid which would meet the requirements of Section 81371.

81362. The sale may be made for cash, or for part cash and upon such terms of deferred payments secured by purchase money, mortgage, or deed of trust as are determined by the action of the governing board.

81363. The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay; provided, however, that the proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5 may be deposited in the general fund of the district if, prior to such sale or lease, the community college district governing board and the Board of Governors of the California Community Colleges have determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease.

81363.5. The sale or lease with an option to purchase of real property by a community college district shall be in accordance with the following priorities and procedures.

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value;

(1) In writing, to the state, the Regents of the University of California, the Trustees of the California State University and Colleges, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public

agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the community college district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of such offers to accept.

(c) Fourth, the property may be disposed of in any other manner authorized by law.

81364. Any lease may be made upon such consideration or for such rental, as is authorized by the action of the governing board.

81365. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.

81366. In lieu of the declaration of intention to lease real property provided in Section 81365, the governing board of a community college district having an average daily attendance of 400,000 or

more as shown by the annual report of the county superintendent of schools for the preceding year may publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district. The notice shall describe the property proposed to be leased in such manner as to identify it and shall specify the minimum rental and terms upon which it will be leased. The notice shall fix a time not less than 15 days thereafter for a public meeting of the governing board to be held at its regular place of meeting at which proposal to lease will be received and considered.

The governing board by majority vote may adopt a ruling delegating to such officer or employee of the district as the board may designate, authority to perform the duties prescribed in this section.

Bids received under this section shall be received, accepted, or rejected in accordance with the provisions of this article.

81367. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the sealed proposal or stated in or with the oral bid, which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

81368. Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

81369. Whenever it is proposed to lease real property and the governing board unanimously determines in the resolution that in its opinion, the monthly rental value of the property does not exceed the sum of fifty dollars (\$50), the resolution need not be posted and may, before the date of the meeting, be published in two successive issues of a weekly newspaper or in five successive issues of a daily newspaper. The newspaper in which the notice is published shall be one published in the district and having a general circulation there; or if there is no such newspaper, then one having a general circulation in the district; or if there is no such newspaper, then in one having a general circulation in a county in which the district or any part thereof is situated.

81370. At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms

and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

81371. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.

81372. The governing board by majority vote may adopt a rule delegating to an officer or employee of the district the authority to perform the duties required to be performed by the governing board under Sections 81370 and 81371. If such rule is adopted, the resolution required in Section 81365 shall specify, in lieu of the public meeting of the governing board to be held at its regular place of meeting, the place at which the designated officer or employee will receive and open sealed proposals to purchase or lease and will call for oral bids.

All other provisions of this article not in conflict with the delegation of this authority are applicable. However, the final acceptance of a bid, or rejection of all bids, shall be made by the governing board at a public meeting.

81373. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 81367, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.

81374. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

81375. The governing body may at the session, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

81376. Any resolution of acceptance of any bid made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and

compliance by the purchaser or lessee of all the terms or conditions of his contract to be performed concurrently therewith.

81377. Nothing in Sections 81360 to 81363, inclusive, shall prevent the governing board of a community college district from acquiring, leasing or subleasing property pursuant to Section 1261 of the Military and Veterans Code.

81378. The governing board of a community college district may, without complying with any other provision of this article, let in the name of the district any buildings, grounds, or space therein, together with any personal property located thereon, not needed for school classroom buildings upon such terms and conditions as may be agreed upon by the governing board of the district and the lessee thereof for a period not exceeding five separate or consecutive calendar days or portions thereof in each fiscal year.

81379. In addition to any other authority to lease real property, the governing board of a community college district, by a two-thirds vote of its members, may lease, for a term not exceeding three months, district property having a residence thereon, which cannot be developed for district purposes because of the unavailability of funds. The lease shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this section.

81380. The governing board of a community college district may, with the approval of the county board of supervisors, sell or lease any building of the district together with the site upon which such building is located, without complying with any other provisions of this article, provided that the county board of supervisors finds that all of the following conditions exist:

(a) The sale or lease is to be made to an incorporated nonprofit tax-exempt community or civic organization with a membership comprised predominantly of persons residing in the community in which the building and site are situated.

(b) The building is not suitable for school purposes.

(c) The building has an historic value and its preservation and utilization for the benefit of the community will best be ensured by sale or lease to an organization specified in subdivision (a).

(d) The sale or lease is to be executed for a consideration to inure to the district reflecting the fair market value of the property, or its fair rental value, as the case may be.

(e) Adequate provision has been made in connection with the sale or lease transaction to protect the district against all civil liabilities which might arise in connection with any use of the building and site.

81381. The governing board of a community college district may lease property in an adjoining district for garage, warehouse, or other utility purposes or may purchase property in an adjoining district for such purposes and may dispose of such property in the same manner as property within the boundary of the district is purchased and disposed of.

The power of eminent domain shall not be applicable and such acquisitions by purchase shall be subject to the approval of the governing board of the community college district in which the property is located.

81382. The failure to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

#### Article 5. Joint Occupancy

81390. Any community college district may enter into leases and agreements relating to real property and buildings to be used jointly by the district and any private person, firm, or corporation pursuant to this article. As used in this article, "building" includes onsite and offsite facilities, utilities and improvements which as agreed upon by the parties are appropriate for the proper operation or function of the building to be occupied jointly by the district and the private person, firm, or corporation. It also includes the permanent improvement of school grounds.

Nothing in this article shall authorize the joint occupancy or the entry into any contract for the joint occupancy, by a community college district and any other contracting party, of any building utilized in whole or in part for classroom purposes or other purposes involving group participation by students unless such classroom use or student participation is in connection with a voluntary adult education program. Except in connection with a voluntary adult education program, the occupancy of a building utilized for classroom purposes or other purposes involving group participation by students shall be exclusively by the district.

81391. Before the governing board of a community college district enters into a lease or agreement pursuant to this article, it shall own a site upon which a building to be used by the district and private person, firm, or corporation may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites.

81392. The term of any lease or agreement entered into by a community college district pursuant to this article shall not exceed 66 years.

81393. Sections 81360 to 81378, inclusive, shall not apply to leases made pursuant to this article.

81394. The governing board of a community college district may let to any private person, firm, or corporation, any real property which belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the joint use of the district and the private person, firm, or corporation during the term of the agreement; provided that title to that portion of the building to be occupied by the private individual, firm or corporation shall remain exclusively

the personal property of the private party during the term of the lease and the title to such portion of the building to be occupied by the district shall vest in the district upon completion thereof and acceptance thereof by the district; provided further that no rental fee or other charge for the use of the building shall be paid by the district.

81395. Any lease of real property by a community college district to a private person, firm, or corporation pursuant to this article shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article; provided, however, that any such lease or agreement shall be subject to the provisions of Article 2 (commencing with Section 72530) of Chapter 5 of Part 45 of this division.

81396. Before entering into a lease or agreement pursuant to this article, the governing board of a community college district shall comply with the provisions of Section 81397.

81397. For the purposes of receiving proposals for the joint occupancy of a building to be constructed on school property, the board shall, in a regular open meeting, adopt a resolution declaring its intention to consider the proposals. The resolution shall describe the proposed site on which the building to be jointly occupied is to be constructed in such a manner as to identify said site, shall specify the intended use of that portion of the building which is to be occupied by the district and shall fix a time not less than 90 days thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which meeting the board shall receive and consider all plans or proposals submitted.

81398. Notice of adoption of the resolution and the time and place of holding the meeting shall be given by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the district if there is one, or if none is published in the district, in a newspaper published in the county.

81399. At the time and place fixed in the resolution for the meeting of the governing board, the board shall meet and consider all plans and proposals submitted for the joint occupancy of the building to be constructed on the proposed school site.

81400. After considering all proposals submitted, the governing board of the community college district shall have the authority, subject to the provisions of Section 81401, to select the plan or proposal which best meets the needs of the district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the district's governing board; provided, however, that the governing board shall not approve any proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the board of governors, and the board of governors has approved such proposal. The board of governors shall, within 45 days of the date of submission, notify the governing board of its approval or disapproval.

The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file a bond, executed by either two or more good and sufficient sureties or by a corporate surety, for the performance of such lease or agreement.

81401. Any building constructed for the use of a community college district pursuant to this article is subject to Sections 81130 to 81145, inclusive, and all other provisions of this code relating to the physical structure of school buildings.

81402. The provisions of this article prevail over any provisions of law which conflict therewith.

81403. This article shall remain in effect until June 1, 1980, and shall have no force or effect after that date.

#### Article 6. Joint Use, School Property

81420. A community college district may enter into a lease or agreement with a city, county, or city and county for the joint occupancy, or a private education institution for its sole occupancy, of the real property and buildings of the district, provided that no such occupancy of school buildings and grounds shall occur during normal school hours when the school is in session.

81421. As used in this article, "building" includes onsite and offsite facilities, utilities and improvements which as agreed upon by the parties are appropriate for the proper operation or function of the building to be jointly occupied and used. It also includes the permanent improvement of school grounds.

81422. Prior to entering into a lease or agreement pursuant to this article, the community college district governing board shall determine that the proposed joint occupancy and use of district property or buildings will not interfere with the educational program or activities of any school or class conducted upon the real property or in any such building.

81423. No such lease or agreement shall exceed a term of five years, but may be renewed on the same or different conditions at the end of such term.

#### Article 7. Sale or Lease Between Agencies

81430. The governing boards of any community college district may sell, exchange, grant or quitclaim all or any of its interest in, or may lease for a term not exceeding 99 years, to the federal government or its agencies, to the state, or to any county, city and county, city or special district, or to any other school district, any real property belonging to the district, and which is not or will not at the time of delivery of title or possession be needed for school classroom buildings by the district owning it, as provided in this article.

81431. Any sale, exchange, lease or grant of an interest in real property by a community college district pursuant to Section 81430

shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article.

81432. The board shall not enter into and be a party to any such sale, exchange, or lease unless the following conditions have been met:

(a) A resolution authorizing such action and prescribing the terms of the sale, exchange, or lease has been adopted by the unanimous vote of all the members elected or appointed to the board;

(b) Such resolution has been published in a newspaper published in the district and having a general circulation there; or if there be no such newspaper, then in a newspaper having a general circulation in the district; or, if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. Notice shall be published no less than once a week for three weeks prior to the making of the sale, exchange, or the execution of the lease by the board.

81433. In any lease made pursuant to this article, it shall be competent to provide that the community college district lessee may purchase the property at an agreed purchase price and that rental paid for the use of the property shall be applied in whole or in part upon the purchase price. The district lessee may cancel the lease at the end of any budgetary year, and in such case shall not be obligated to complete the lease and shall be released from all obligations thereunder.

#### Article 8. Sale or Lease—Personal Property Between Agencies

81440. The governing board of any community college district may sell any personal property or school supplies belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district and the governing board of another school district may purchase the property, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing, and handling the property, without advertisement for or receipt of bids or compliance with any other provisions of this code. The governing board of any community college district may purchase any personal property or school supplies for the purpose of selling them, pursuant to this section.

81441. The governing board of any community college district may sell or lease used personal property belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district, and the governing board of another school district may purchase or lease the property. The selling price and the terms of sale, or the lease price and the terms of lease shall be fixed by the governing boards of the community college districts effecting the sale or lease, and approved by the county superintendent of schools. The sale or lease may be made without advertisement for or receipt of bids, or

compliance with any other provisions of this code.

### Article 9. Sale of Personal Property

81450. The governing board of a community college district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

81451. Notwithstanding the provisions of Section 81450, the governing board of a community college district may, with the consent of a county purchasing agent, utilize his services for the sale of personal property, as authorized by Section 25505 of the Government Code.

81452. (a) If the board, by a unanimous vote of those members present, finds that the property does not exceed in value the sum of the five hundred dollars (\$500) it may be sold at private sale without advertising, by any member or employee of the board empowered for that purpose by the majority vote of the board.

(b) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, it may be disposed of in the local public dump on order of any member or employee of the board empowered for that purpose by the majority vote of the board.

81453. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made.

81454. The governing board of any community college district may dispose of personal property belonging to the district for the purpose of replacement by providing in the notice calling for bids for furnishing new materials, articles, or supplies that each bidder shall agree in his bid to purchase the property being replaced and to remove it from the school grounds and shall state in his bid the amount which he will deduct from the price bid for furnishing new materials, articles, or supplies as the purchase price for the personal property being purchased from the district. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

81455. The governing board of any community college district may enter into contracts with manufacturers or suppliers for the

exchange of household appliances and equipment belonging to the district and used for instructional purposes for new property of like class and kind for a similar use without advertising for or taking bids; provided, the cost to the district for such exchange shall not exceed the excess, if any, of the manufacturer's or supplier's selling price of the new property over the original cost to the district of the property being disposed of by the district, plus any applicable tax.

81456. The governing board of any community college district may, when calling for bids and letting contracts for constructing new school buildings, or repairing, altering, adding to, or reconstructing existing school buildings, or demolishing existing school buildings, require each bidder for the performance of the work to agree in his bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from any existing school building on the same school grounds and not required for school purposes and to state in his bid the amount which he will deduct from the price bid for the work as the purchase price of the old materials. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

81457. The governing board of a community college district may authorize any officer or employee of the district to sell to any pupil personal property of the district which has been fabricated by such student, at the cost to the district of the materials furnished by the district and used therein.

81458. The governing board of a community college district may sell to persons enrolled in classes for adults maintained by the district such materials as may be necessary for the making of articles by such persons in such classes. The materials shall be sold at not less than the cost thereof to the district and any article made therefrom shall be the property of the person making it.

81459. A community college district may, in accordance with regulations adopted by the governing board of the district and for educational use, sell, give, or exchange for similar published materials, published materials prepared by the district in connection with the curricular and special services that the district is authorized to perform. Unless restricted by the regulations of the governing board, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published material in accordance with this section is declared to be a public purpose and in furtherance of Section 1 of Article IX of the California Constitution.

A community college district may also license the use of copyrights held by the district, to the same persons or entities and for the same purposes as provided in the above paragraph.

The district shall grant a license to any public agency organized under the authority of this state, unless an exclusive license has previously been granted a private publisher.

Any charge which may be assessed such a public agency for the

license to use the copyright or for materials, to which the district holds the copyright, shall not exceed the cost to the district of the preparation and reproduction of the materials.

Any granting of a license, by a district, to reproduce copyrighted material is declared to be for a public purpose in furtherance of Section 1 of Article IX of the California Constitution.

81460. Notwithstanding any other provision of law, the governing board of any community college district owning land upon which agricultural products are grown may enter into agreements with an agricultural cooperative or association for the purpose of maintaining, harvesting or selling such products.

#### Article 10. Exchange of Real Property

81470. The governing board of a community college district may exchange any of its real property for real property of another person or private business firm. Any exchange shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this article.

81471. Before ordering any exchange of real property the board shall adopt, by a two-thirds vote of its members, a resolution declaring its intention to exchange the property. The resolution shall describe the properties to be exchanged in such manner as to identify them, and the terms and conditions, not including the price, upon which they will be exchanged.

81472. The board and the other party to the exchange each shall appoint one member of a board of appraisers, and the third member shall be selected by the county superintendent of schools. The governing board and the other party to the exchange shall agree on the compensation of the board of appraisers. The amount for the board's appraiser and one-half of the amount for the appraiser appointed by the county superintendent of schools shall be a legal charge against the funds of the district exchanging the property.

The board of appraisers shall make a report to the parties to the exchange and the county superintendent of schools of its determination of the cash values of the properties proposed to be exchanged. The report may provide for payment by one of the parties to compensate for any difference in appraised values of the properties.

81473. If the county superintendent of schools approves the report of the appraisers and the terms and conditions set forth in the resolution, the governing board shall publish at least once a week for two weeks in a newspaper of general circulation, circulated in the county, the resolution and a notice stating the time and place within the district at which a public meeting of the board will be held to consider the report of the appraisers and the exchange of the real properties described in the resolution.

81474. At the time and place fixed in the published notice, the

board shall meet and consider the report of the appraisers. It then may order the exchange pursuant to the terms and conditions set forth in the resolution and the report of the appraisers.

#### Article 11. Exchange of Property

81480. The governing board of any community college district which has acquired title to property included within an application which has been approved by the State Allocation Board for state school building aid and which property is to be used as an access roadway to such school site may exchange such property for other property to be used as an access roadway which abuts a state highway, if in the opinion of the Division of Highways in the Department of Public Works there is objection to the first access roadway, and if in the opinion of the governing board the property acquired by such exchange will afford more safety to the students of the district.

81481. The governing board of any community college district owning real property or any interest or estate therein, a boundary line of which is uncertain or is in dispute, may, by unanimous vote of all the members elected or appointed to the board and without complying with any provision of this code except as provided in this article, exchange with the owner of the adjoining property, which is involved in the uncertainty or dispute, such portion or interest or estate in such school property for property of equal value of such owner adjacent to the property of the district for the purpose of settling such boundary line uncertainty or dispute. The question of value of the properties to be exchanged shall be determined by a panel of three disinterested and qualified real estate appraisers, one appraiser to be appointed by the governing board of the district, one appraiser to be appointed by the owner of the other property involved in the boundary line question, and the two appraisers so appointed to jointly select a third appraiser. One-half of the fee of each of said appraisers and one-half the fee of any surveyor employed to establish lines in connection with the determination of the boundary line uncertainty or dispute shall be a proper charge against the funds of the district, provided that no such appraiser, including the selection of the other party and the selected third appraiser, or surveyor, shall be employed for any purpose herein authorized unless and until a resolution of intention so to employ is adopted by the governing board of the district, and provided further that said resolution shall contain a statement substantially to the effect that the district shall notify any appraiser or surveyor before being so employed that he may collect only one-half his fee from the district.

#### Article 12. Temporary Transfer of Water Stock

81490. The governing body of any community college district owning shares of stock in a mutual water company, which stock is not

appurtenant to any land, may rent, lease, or assign such shares, for a term not to exceed one year, if the board determines the water to which the district is entitled by ownership of such shares is not required to meet the needs of the district during the term for which it is rented, leased or assigned.

81491. The rental, lease, or assignment of the shares of stock shall be made upon such consideration, and such terms and conditions, as may be fixed by action of the board.

81492. No rental, lease, or assignment of shares of stock shall be made until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated.

#### Article 13. Ownership of Fixtures

81500. When any territory withdrawn from a school district or community college district pursuant to this code contains a school building, site or real property, the building or site, together with the fixtures thereof, shall, upon the withdrawal of the territory becoming effective, become the property of the district of which the territory becomes a part or the whole.

81501. If a dispute arises between the governing boards of the two districts concerned as to what constitutes fixtures, a board of arbitrators shall be appointed who shall determine what articles in a school building located within territory withdrawn from any district are fixtures thereof. The board shall consist of one person selected by the district from which the territory is withdrawn, one person selected by the district of which it has become a part, and a third person appointed by the county superintendent of schools of the county in which the districts are located. The two districts involved may mutually agree that the person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the two districts, and the payment of the portion of the expenses is a legal charge against the funds of the districts. The arbitrator or arbitrators shall proceed to view and examine such property, articles, equipment, and fixtures as they are requested to pass upon by the respective districts and make a written finding as to what property, articles, or equipment constitute fixtures. The written finding and determination of a majority of the board of arbitrators is final and binding upon the districts submitting the question to the board of arbitration.

### Article 14. Leasing for Production of Gas

81510. The governing board of a community college district may, upon complying with the provisions of this article, enter into and be a party to a community lease to which a city or other public agency and one or more private persons or private agencies are also parties for the leasing of the parcels of lands owned by the district and the other parties for the extraction and taking of gas not associated with oil, on such terms and conditions as the governing board of the district may prescribe. Such lease may be entered into without complying with any provisions of this code except as provided in this article.

81511. The board shall not enter into and be a party to any such lease unless the following conditions have been met:

(a) A resolution authorizing such action and prescribing the terms of the lease has been adopted by the unanimous vote of all the members elected or appointed to the board;

(b) Such resolution has been published in a newspaper of general circulation published in the district, or if there be no such newspaper, in a newspaper having a general circulation in the district, once a week for three weeks prior to the execution of the lease by the board.

81512. No well for the production of gas shall be drilled on any land owned by the district and leased pursuant to this article.

### Article 15. Lease and Lease-Purchase of Sites, Buildings, and Facilities

81520. The provisions of this article shall govern the lease or lease-purchase of sites, buildings, and facilities by the governing board of community college district whenever the district is the lessee or purchaser and the lease or lease-purchase is not subject to Section 18 of Article XVI of the California Constitution.

81521. For purposes of this article the following definitions shall govern:

(a) "Temporary-use building" is any building for which the intended use by the district at the time of entering into a lease contract or agreement is not for more than three years from the date of first occupancy.

(b) "Relocatable structure" is any structure that is designed to be relocated.

81522. (a) The governing board of a community college district may lease land for a term extending to the expected duration of use by the district.

(b) Any lease contract or agreement entered into pursuant to this section shall be initiated by resolution authorizing such action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

81523. (a) The governing board of a community college district may lease temporary-use buildings for a term extending to the

expected duration of use by the district.

(b) Any lease agreement or contract entered into pursuant to this section shall be initiated by resolution authorizing such action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

(c) A governing board of a community college district shall not enter into a lease pursuant to subdivision (a), unless the resolution adopted pursuant to subdivision (b) has been published in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. Notice shall be published no less than once a week for three weeks prior to the execution of the lease by the board.

(d) Any temporary-use building in which students are expected to enter and which is leased under one, or successive leases, for a total time in excess of three years, or under a lease-purchase contract, shall be subject to the provisions of Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of this chapter.

81524. Any lease contract or agreement entered into pursuant to Section 81523 shall be subject to the condition that the site on which any temporary-use building is located shall be owned by the district, or shall be under the control of the community college district pursuant to a lease or lease-purchase contract or agreement under the terms of which the land is leased to the district for a term at least as long as the intended use of the building, and under conditions that are compatible with the intended use of the building.

81525. Any lease contract or agreement entered into pursuant to Section 81523 may provide for the joint use and occupancy by any public or private entity.

81526. (a) The governing board of a community college district may lease relocatable structures for a term extending to the expected duration of use by the district, but not to exceed 10 years.

(b) Any lease agreement or contract entered into pursuant to this section shall be initiated by resolution authorizing such action and prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

81527. In any lease made pursuant to Section 81526, it shall be competent to provide that the community college district lessee may purchase the relocatable structure at an agreed purchase price and that rental paid for the use of such structure or building shall be applied in whole or in part upon the purchase price.

81528. Any lease contract or agreement entered into pursuant to Section 81526 shall be subject to the following conditions:

(a) A leased relocatable structure in which students are expected to enter and which is to be used for school purposes for a total time in excess of three years shall be subject to the provisions of Article

7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of this chapter.

(b) Subdivision (a) of this section shall not apply to trailer coaches used for classrooms or laboratories if such trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 16 feet in width, are used for special educational purposes, and are used by not more than 12 students at a time, except that such trailer coaches may be used by not more than 20 students at a time for driver training purposes.

(c) The site on which a leased relocatable structure is located shall be owned by the community college district, or shall be under the control of the district pursuant to a lease or a permit.

81529. (a) Notwithstanding any other provision of law to the contrary, the governing board of a community college district may designate a building, which is primarily used for other than public school purposes, as an "offsite location" for the purpose of conducting instruction in educational programs as prescribed by the governing board, provided that such educational programs require an "offsite location" in order to adequately fulfill the objective of the educational program.

(b) Any building used as an "offsite location" pursuant to subdivision (a) shall not be subject to Article 7 (commencing with Section 81130) of, or Article 8 (commencing with Section 81160) of, this chapter.

81530. The governing board of a community college district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 12 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

(c) Except as otherwise provided, any building leased for a total time in excess of three years, or under a lease-purchase agreement, shall be deemed the construction or alteration of a school building, as those terms are used in Article 7 (commencing with Section 81130) of this chapter.

81531. Any lease or lease-purchase contract or agreement executed prior to the effective date of this article shall remain in full force and effect. The renewal of such contracts or agreements, however, shall be governed by the provisions of this article.

81532. Notwithstanding any limitations or requirements imposed by this article upon the leasing or renewal of leasing of relocatable structures on and after August 27, 1974, all acts and proceedings heretofore taken by or on behalf of any community college district for the lease of, or the renewal of a lease of, relocatable structures,

including but not limited to trailers, are hereby confirmed, validated and declared to be legally effective and such lease agreements or renewals of such lease agreements are legal, valid and binding obligations if such lease agreements or renewals of such lease agreements would have otherwise been authorized under former Education Code Section 15352 or 15352.5 had such sections not been repealed on August 27, 1974, by Chapter 547 of the Statutes of 1974.

#### Article 16. Leasing of Equipment

81550. A community college district may, as lessee, enter into a lease or lease-purchase agreement for equipment or service systems with any person, firm, corporation or public agency. As used in this article "equipment" includes (1) schoolbuses, (2) other motor vehicles, (3) test materials, educational films, and audiovisual materials, and (4) all other items defined as equipment or service systems in the Community College Budget and Accounting Manual.

81551. Before a lease or lease-purchase agreement may be entered into the lessee shall comply with all applicable provisions for bids and contracts prescribed by Article 3 (commencing with Section 81640) of Chapter 3 of this part. Each contract shall show the total price for an outright purchase of any item and also its total cost for the entire specified term of the contract.

81552. The term of any lease or lease-purchase agreement shall not exceed the estimated useful life of the item but in no event shall the term exceed 10 years. A lease, but not a lease-purchase agreement, may be renewable at the option of the lessee and the lessor, jointly, at the end of each term at a rate not more than 7 percent annually above the rate set pursuant to the existing agreement. In no event shall the combined period of the original lease and renewals or extensions exceed 10 years. Any contract for the lease or lease-purchase of equipment or service systems which was in existence prior to the effective date of this act shall remain in effect and such terms are hereby ratified.

81553. As a lessor, a community college district governing board is authorized to let, or let with option to purchase, any land, buildings, or equipment it determines is not needed for school purposes for a term extending to the end of the expected nonuse of the land, buildings, or equipment and under any conditions it deems reasonable. All such leases and leases with options to purchase to nonpublic agencies or individuals shall comply with the provisions of Sections 81450, 81452, 81453, and 81454.

## CHAPTER 3. MANAGEMENT AND CONTROL OF PROPERTY

## Article 1. General Provisions

81600. The governing board of a community college district shall manage and control school property within its district.

81601. The governing board of a community college district shall furnish, repair, insure against fire, and in its discretion rent the school property of its districts. The governing board may also insure the property against other perils. The insurance shall be written in any admitted insurer, or in any nonadmitted insurer to the extent and subject to the conditions prescribed in Section 1763 of the Insurance Code. Insurance on property of a district may be, in the discretion of the governing board, of the deductible type of coverage. By deductible type of coverage is meant a form of insurance under which the insurance becomes operative when the loss and damage exceeds an amount stipulated in the policy or policies.

The governing board, in their notice of bid for district construction, may indicate that it may elect to assume the cost of fire insurance by adding the coverage to the district's existing policy and in such event bids made on such construction shall be made in the alternative, with and without the fire insurance coverage included, and the governing board shall make its election as to who shall secure and pay for such insurance at the time of accepting the bid. The deductible amount of fire insurance for any community college district may exceed one thousand dollars (\$1,000) for each occurrence.

81602. The governing board of a community college district may, by resolution, establish a fund for losses to district property in the county treasury for the purpose of covering, with respect to district property, the deductible amount under deductible types of insurance policies or losses due to noninsured perils. In the fund shall be placed such sums, to be provided in the budget of the district, as will create an amount which, together with investments made from the fund, will be sufficient in the judgment of the governing board to protect the district from losses on any part of its school property due to the deductible amount under deductible types of insurance policies or losses due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against losses to district property partly by means of the fund and partly by means of insurance written by admitted insurers as provided in Section 81601.

Annual contributions to the fund shall not exceed one-half of 1 percent of the general fund budget of the community college district or fifty thousand dollars (\$50,000), whichever is the greater.

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

Warrants shall not be drawn on or transfers made from the fund so created, except to reimburse or indemnify the community college

district for losses as herein specified, and only upon resolution duly adopted by the board of education.

The cash placed in the fund may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund.

81603. Nothing in the Education Code shall be construed as prohibiting two or more community college districts subject to Section 81601 from performing the powers prescribed in Section 81602, through a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

81605. In community college districts situated within or partly within cities having a population of over five hundred thousand (500,000) as determined by the 1920 federal census any board of education may establish a fund in the county treasury for the purpose of covering fire losses to school property in lieu of carrying fire insurance in admitted insurers as provided in Section 81601 of this code. In such fund shall be placed such sums, to be provided in the budget of the district, as will create an amount which, together with investments made from such fund, will be sufficient in the judgment of the board of education upon the advice of competent actuaries to protect such board of education against losses by fire on all or any part of the school property within its jurisdiction. Nothing contained herein shall be construed as prohibiting the board of education from providing protection against fire losses partly by means of such fund and partly by means of fire insurance written by admitted insurers as provided in Section 81601.

Such fund shall be considered as separate and apart from all other funds of the district and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets or fixing annual tax rates.

Warrants shall not be drawn on or transfers made from the fund so created except to reimburse the district for losses by fire and then only after resolution duly adopted by the county board of education based upon findings by competent appraisers.

The cash placed in such fund may be invested and reinvested by the county treasurer with the advice and consent of the county board of education in securities which are legal investments for surplus county funds in this state. The income derived from such investments together with interest earned on uninvested funds shall be considered revenue of and be deposited in such fund.

The county treasurer shall make quarterly reports to the county board of education as to the condition of the fund, using as a basis for such report the cost or market value, whichever may be the lower, of the securities held as investments plus the cash in such fund.

81606. The governing board of any community college district

may grade, pave, construct sewers, or otherwise improve streets and other public places in front of real property owned or controlled by it, and also may construct in immediate proximity to any school or site owned or controlled by the district, pedestrian tunnels, overpasses, footbridges, sewers and water pipes when required for school or administrative purposes, may acquire property, easements and rights-of-way for such purpose, and may appropriate money to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality.

81607. Any provision to the contrary notwithstanding, the governing board of any community college district, with over 50,000 students in average daily attendance during the preceding fiscal year, may construct pedestrian walks, footbridges, and pedestrian tunnels when required for the safety of students attending the schools of the district, may acquire easements and rights-of-way for such purposes, and may appropriate money to acquire such easements and rights-of-way and to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality. Such pedestrian walks, footbridges, and pedestrian tunnels shall be constructed, and such easements or rights-of-way for such purposes shall be acquired, within one mile of the school for the students of which such walks, bridges, and tunnels are necessary.

81608. The governing board of any community college district may install and maintain a lighting system in any underpass in the vicinity of a schoolhouse.

81609. The governing board of any community college district may appropriate money to pay assessments, for the improvement of streets or other public places, levied against any real property owned by, or under the control of, the board, when the property is included within an assessment district formed in pursuance of any general law of the state or under the charter of any municipality. The assessments may be paid out of any funds belonging to the district, except funds derived from the sale of bonds or required by law to be used for teachers' salaries.

81610. The governing board of every community college district shall provide a warm, healthful place in which students who bring their own lunches to school may eat the lunches.

81610.5. The governing board of a community college district may construct a mobilehome site on the grounds of any school or schools maintained by the district, including all necessary appurtenances and fixtures, and may pay the cost of utilities, insurance, and necessary services, for the purpose of enabling a responsible person or persons to install and occupy a mobilehome on

such site. Such person or persons, who need not be classified as employees of the district, shall, in return for being permitted to install and occupy a mobilehome on the school site on terms and conditions acceptable to the governing board, agree to maintain any surveillance over the school grounds as the school district governing board requires, and to report to school authorities illegal or suspicious activities that are observed.

81611. The governing board of any community college district, when leasing a building for housing of district employees, may lease such building for any period they deem necessary.

81612. The governing board of every community college district shall provide, as an integral part of each school building, or as part of at least one building of a group of separate buildings, sufficient patent flush water closets for the use of the students. In districts where the water supply is inadequate, chemical water closets may be substituted for patent flush water closets by the board.

This section shall apply to all buildings existing on September 19, 1947, or constructed after such date.

81613. In addition to the other powers granted the governing board of each community college district may provide sewers and drains adequate to treat and/or dispose of sewage and drainage on or away from each school property. For this purpose it may construct adequate systems or acquire adequate disposal rights in systems constructed or to be constructed by others for these purposes without regard to their proximity. The cost thereof may be paid from the building fund, including any bond moneys therein.

81614. The governing board of each community college district shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of their respective community colleges pursuant to Sections 81614 to 81616, inclusive.

81615. All football equipment actually worn by students shall be cleaned and sterilized at least once a year. Football equipment used in spring training shall be cleaned and sterilized before it is used in the succeeding fall term.

81616. Any contract with a dealer or craftsman for the repair of football equipment belonging to the community college district shall specifically state or describe the materials to be used by the dealer or craftsman in repairing such equipment.

## Article 2. Duties of District Clerks

81630. The clerk of each community college district shall, under the direction of the governing board, keep the schoolhouses in repair during the time school is taught therein, and exercise a general care and supervision over the school premises and property during the vacations of the school.

## Article 3. Contracts

81640. The governing board of any community college district shall let any contracts involving an expenditure of more than five thousand dollars (\$5,000) for work to be done or more than eight thousand dollars (\$8,000) for materials or supplies to be furnished, sold, or leased to the district, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids. This section applies to all materials and supplies whether patented or otherwise.

81641. For the purpose of securing bids the community college board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time when and the place where bids will be opened. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

81642. Notwithstanding any other provisions of Sections 81640 to 81654, inclusive, the governing board of any community college district without advertising for bids may authorize by contract, lease, requisition or purchase order, any public corporation or agency within the county whose superintendent of schools has jurisdiction over such district, to lease data processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors and other personal property for the district in the manner in which such other public corporation or agency is authorized by law to make such leases or purchases. Upon receipt of any such personal property, provided the same complies with the specifications set forth in the contract, lease, requisition or purchase order, the community college district shall draw a warrant in favor of such other public corporation or agency for the amount of the approved invoice, including the reasonable costs to such other public corporation or agency for furnishing the services incidental to the lease or purchase of such personal property.

81643. Nothing in this code shall preclude the governing board of any community college district from purchasing materials, equipment or supplies through the Department of General Services pursuant to Government Code Section 14814.

81644. Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

81645. Continuing contracts for the lease of electronic data-processing systems may be made with an acceptable lessor until

the governing board of the community college district determines that it is in the best interests of that district to replace the present electronic data-processing systems. The governing board may make such contracts with an acceptable lessor who is one of the three lowest responsible bidders.

81646. Notwithstanding any other provision of law, including Chapter 6 (commencing with Section 10500) of Part 7 of Division 1 of Title 1, or Section 88003, the governing board of any community college district may contract for electromechanical or electronic data-processing work to be done or related services to be performed by a vendor or lessor acceptable to the board. Contracts for electromechanical or electronic data processing that are entered into pursuant to this section shall be subject to Sections 81640 and 81641 if any such contract involves an expenditure of funds for either work to be done or materials or supplies to be furnished, sold, or leased in a dollar amount greater than that provided in Section 81640.

81647. Nothing contained in this article shall be construed to limit the authority of any community college district to contract for electromechanical or electronic data-processing work to be done or related services to be performed with any other public agency pursuant to the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or Section 11000 or 11001 of this code.

81648. In an emergency when any repairs, alterations, work or improvement is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the board may by unanimous vote, with the approval of the county superintendent of schools, make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

81649. In each community college district, the governing board may make repairs, alterations or additions to school buildings, repair or build apparatus or equipment, make improvements on the school grounds, and erect new buildings by day labor, or by force account, whenever the total cost of labor on the job does not exceed three thousand five hundred dollars (\$3,500) or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 federal census, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment by day labor or by force account whenever the total cost of labor on the job does not exceed three thousand dollars (\$3,000) or the total number of hours on the job does not exceed 750 hours, whichever is greater.

For purposes of this section, day labor shall include the use of maintenance men, whether employed on a permanent or temporary basis.

81650. The governing board of any community college district defined hereafter, in addition to any other authority granted by law,

may employ as classified employees, in accordance with rules and regulations established by the personnel commission, any certificated employees of the district or districts during vacation periods, or on any other day or days when the certificated employee is not required to perform services for the district, to repair or build apparatus or equipment related to their duties as certificated employees even though the total cost of labor exceeds one thousand dollars (\$1,000). This section applies only when the average daily attendance of any school district, or of two or more school districts governed by governing boards of identical personnel, is 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding school year.

81651. The governing board of any community college district may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, or workbooks in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

81652. Notwithstanding any limitations imposed by this article specifically with respect to electromechanical or electronic data-processing work to be done or related services to be performed, the governing board of a district, the boundaries of which are coterminous with those of the City and County of San Francisco, may contract for such work to be done or related services to be performed, without regard to such limitations.

81653. The governing board of any community college district may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

81654. The governing board of any community college district shall determine the method of payment for construction contracts, including progress payments for completed portions of the work or for materials delivered on the ground or stored subject to the control of the board and unused.

81655. Wherever in this code the power to contract is invested in the governing board of the community college district or any member thereof, such power may by a majority vote of the board be delegated to its district superintendent, or to such persons as he may designate, or if there be no district superintendent then to such other officer or employee of the district as the board may designate. Such delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise, all as the governing board may direct; provided, however, that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, said approval or ratification to be evidenced by a motion of said board duly passed and adopted. In the event of malfeasance in office, the district official invested by the governing

board with such power of contract shall be personally liable to the district employing him for any and all moneys of the district paid out as a result of such malfeasance.

81656. The governing board by majority vote may adopt a rule, delegating to such officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus and equipment. No such rule shall authorize any officer or employee to make any purchases involving an expenditure by the district of ten thousand dollars (\$10,000) or more. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by such officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the community college district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

81657. The governing board of any community college district with an average daily attendance of not less than 60,000 may by majority vote authorize its district superintendent, or such person as he may designate, to expend up to one hundred dollars (\$100) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

81658. If any change or alteration of a contract governed by the provisions of this article is ordered by the governing board of the community college district, such change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

(a) The amount specified in Section 81640 or 81649, whichever is applicable to the original contract; or

(b) Ten percent (10%) of the original contract price.

The governing board of any community college district, or of two or more districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also authorize any change or alteration of a contract for reconstruction or rehabilitation work other than for the construction of new buildings or other new structures, where the cost of the change or alteration is in excess of the limitations in subdivisions (a) and (b) but does not exceed 25 percent of the original contract price, without the formality of securing bids, when

such change or alteration is a necessary and integral part of the work under the contract and the taking of bids would delay the completion of the contract. Changes exceeding 15 percent of the original contract price shall be approved by an affirmative vote of not less than 75 percent of the members of the governing board.

#### Article 4. Community College Property

81670. The governing board of any community college district, when in its judgment necessity therefor exists, may construct and maintain dormitories in connection with any community college within the district for use and occupancy by students in attendance at the community college, and shall fix the rates to be charged the students for quarters in the dormitories.

81671. Moneys received by a district from rental of quarters in dormitories constructed with moneys derived from the sale of bonds may, in lieu of being deposited in the county treasury to the credit of the general fund of the district, be deposited in the county treasury to the credit of the interest and sinking fund of the district.

81672. If satisfactory quarters in a suitable location are offered at a rental which makes it advisable to accept them, the governing board of the community college may lease the quarters for a period not to exceed three years.

At the expiration of the lease or other arrangement, the board may continue to renew said lease or other arrangement, for a period not to exceed three years and may continue to renew for periods not to exceed three years as long as the facilities are needed.

81673. Whenever the cafeteria in any community college is used as a laboratory or classroom for the quantity preparation of food, the governing board may make such financial and administrative arrangements as it may see fit to cover the use of the cafeteria as a laboratory or classroom and the disposition or sale of the food prepared.

81674. The governing board of any community college district may construct and maintain student centers, student union or activity buildings or facilities, vehicle parking facilities, health service facilities, bookstores or other auxiliary facilities for use by students or faculty members of the community college or employees of the district.

81675. Notwithstanding any of the provisions of Article 4 (commencing with Section 81360) of Chapter 2 of this part to the contrary, the governing board of any community college district may lease real property owned by the district to a student body organization established pursuant to Section 76060, upon such terms and conditions as the board may determine, for use as a student center, student union or activity building or facility, food service facility, health service facility, bookstore or any combination of such facilities. Such a student body organization may agree to lease real property pursuant to this section. .

81676. The governing board of any community college district may establish a bookstore on district property for the purpose of offering for sale textbooks, supplementary textbooks, school supplies, stationery supplies, confectionary items, and related auxiliary school supplies and services.

The governing board may establish a bookstore fund into which the proceeds derived from the operation of a community college bookstore may be transferred. Moneys in a bookstore fund shall be deposited or invested in one or more of the following ways:

(a) Deposits in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of United States securities pursuant to subdivision (a) of Section 16430 of the Government Code.

The governing board shall designate an employee or official of the district to act as trustee for funds derived from the operation of a community college bookstore and to receive such funds in accordance with procedures established by the board. Any person who is employed in a bookstore maintained by a community college pursuant to this section is a member of the classified service of the district in accordance with Section 88020. In the case of a person who, immediately preceding becoming a member of the classified service of a school district pursuant to this section, was employed, other than as a student or substitute employee, in a community college bookstore maintained by a student body organization pursuant to Section 81675, such prior service shall, for all purposes, be deemed service in the classified service of the employing community college district. All necessary expenses, including salaries, wages and costs of capital improvements, may be deducted from the revenue of a community college bookstore. Net proceeds from the operation of a community college bookstore shall be used for the general benefit of the student body as determined by the governing board. Money may be expended for services and property, including, but not limited to, parking facilities, stadia, student centers, student unions, health centers, bookstores or auxiliary facilities for use of students or faculty members of the community college or employees of the district. Funds derived from the operation of a community college bookstore shall be subject to audit pursuant to Section 84040.

81677. The governing board of any community college district may establish and operate a fire department upon any community college campus governed by it and located wholly outside any city, fire protection district or other local agency which provides fire protection service. No such fire department shall be established until the board has first received approval in writing from the local agency formation commission for the county in which all or the major

portion of such campus is located.

The board of trustees of any district within which the fire department is established pursuant to this section may enter into mutual aid agreements with other governmental agencies providing fire protection, and may contract with owners or occupants of property within the vicinity of the campus on which such department is located for fire protection service, but only during such time as such property is not within the territory of any city, fire protection district or other local agency which provides fire protection service.

Any fire department established pursuant to this section may be continued notwithstanding the subsequent annexation of any portion of the campus on which it is located to any city, fire protection district or other local agency providing fire protection service. As used in this section, the operation of a fire department shall be deemed to include the maintenance and operation of ambulances and rescue and first aid services.

During the time any department is operated pursuant to this section, the board may on behalf of its fire department maintain membership in any local, state or national group or association organized or operated for the promotion or the preservation of life and property from the hazards of fire and panic.

81678. The governing board of any community college district in the City and County of San Francisco may lease buildings and other facilities in the City and County of San Francisco which meet the requirements of Article 8 (commencing with Section 81160) of Chapter 1 of this part, relating to the examination of the structural conditions of such buildings or facilities, for a period of not to exceed 12 years, and with an option to renew such lease for a period of not to exceed 12 years.

#### CHAPTER 4. COMMUNITY COLLEGE CONSTRUCTION ACT OF 1967

##### Article 1. Definitions and General Provisions

81800. This chapter may be cited as the Community College Construction Act of 1967.

81801. As used in this chapter, the term "community college" shall mean grades 13 and 14 of a community college; and the term "community college district" shall mean any community college district.

81802. As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of community college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or

for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.

81803. As used in this chapter, the term "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

81804. As used in this chapter, "chancellor" means the Chancellor of the California Community Colleges.

81805. This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs as related to floor areas.

81806. Any action of the chancellor in administering this chapter may be appealed to the Board of Governors of the California Community Colleges by the governing board of an affected community college district. The appeal shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.

81808. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor a final report on all expenditures in connection with the project and the sources of the funds expended.

**Article 2. Plans for Capital Construction**

81820. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of November in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

81821. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors.

81822. The chancellor shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

### Article 3. Project Proposals and Approvals

81830. Any community college district may submit to the chancellor for review and approval a proposed project. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 81821.

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if he approves the same, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and April 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

81832. The Department of Finance shall review, evaluate, and approve proposed project submitted to it by the chancellor. The review and evaluation shall be directed particularly to ascertaining whether the proposed project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction program specified in Section 81821. Any proposed project which is not approved shall be returned to the governing board of the community college district with recommendations deemed necessary by the Department of Finance.

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to the 15th day of January 1968, and of each year thereafter, shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding first day of April 1968, and each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the department pursuant to Section 81832 on or before the first day of July 1968, and each year thereafter.

81834. Upon securing approval of a proposed project pursuant to Sections 81831 and 81832, the governing board of a community college may submit to the chancellor for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the chancellor prior to the first day of October each year preceding the commencement of such regular session.

Preliminary plans for a project shall include outline specifications, and drawings, and all other data and information necessary to determine detailed estimates of cost.

In the event that the governing board of a community college

district has decided to submit a request for funds for working drawings only, in the first fiscal year, it may submit initial preliminary plans based upon the program for the project and include drawings and all other data necessary to show location, function, scope, and approximate cost.

81835. The chancellor shall review and evaluate preliminary plans for a project and shall either finally approve or disapprove the same on or before the 15th day of November each year following the date of their submission by the governing board of the district. Following the review and evaluation, approved preliminary plans for a project shall be transmitted to the Department of Finance not later than the 15th day of November each year. Preliminary plans not receiving approval may be returned to the governing board of the community college submitting them.

For purposes of this section, the chancellor shall have the authority to confer with and advise the governing board of a community college district or the representatives of such board and to effect modifications and alterations in preliminary plans for a project.

81836. The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and, after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review all plans and specifications for all construction in every community college district required to submit plans and specifications therefor to it for approval.

The chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged. The minimum fee in any case shall be ten dollars (\$10).

(d) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make, upon the request of the governing board of any community college district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein,

from the district.

(f) Employ experts, and clerical and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling ten thousand dollars (\$10,000) or more, for the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by the office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

81838. The review and evaluation of preliminary plans for a project by the chancellor shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the same by the amount of federal funds available therefor, and determining the respective shares of the remainder thereof to be borne by the state and by the district. The determination of the respective shares of the project to be borne by the state and the district shall be made on the basis of the relative district ability. If the relative district ability is one (1), the state and district shall share the cost equally; if the relative district ability is less than one (1) the state shall bear more of the cost than the district; and if the relative district ability is greater than one (1), the state shall bear less of the cost than the district.

"Relative district ability" is the quotient obtained by dividing (1) the assessed valuation of the district for the academic year in which an application for a project is submitted to the chancellor, divided by the annual average weekly student contact hours in the district for the same academic year, by (2) the total of assessed valuation for all community college districts in the state for the same academic year, divided by the total annual average weekly student contact hours in all community college districts of the state for the same academic year.

(d) Determining the total of funds immediately required for the first phase of the project to be provided by the state by appropriation, and the funds immediately required to be provided by the district.

81839. Notwithstanding Section 81838, the relative district ability of a community college district formed after June 30, 1964, from territory other than that which included a unified or high school district which maintained a community college, or a community college district, shall be computed according to one of the following: (1) for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, by dividing the 1968–1969 assessed valuation of the district by the 1974–1975 projected enrolled weekly student contact hours of the district, or (2) for a district which became effective for all purposes between July 1, 1967, inclusive, and June 30, 1969, the lesser dividend of the 1968–1969 assessed valuation of the district divided by the 1975–1976 projected enrolled weekly student contact hours of the district, or the projected enrolled weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered, or (3) for a district which becomes effective for all purposes after June 30, 1969, by dividing the assessed valuation of the district by the projected enrolled weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered.

Relative district ability shall be computed pursuant to Section 20081 for fiscal year 1975–1976 and each year thereafter for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, and for the sixth fiscal year after day classes are first offered and each year thereafter for a district which became effective for all purposes on July 1, 1967, inclusive and thereafter.

The projected enrolled weekly student contact hours for purposes of this section shall be determined by the Department of Finance in cooperation with the Board of Governors of the California Community Colleges and the community college district affected.

Expenditures made by a district during the 1969–1970 fiscal year for projects approved or approvable pursuant to Chapter 4 (commencing with Section 81800) of this part which exceeds that required for local expenditure for such projects by the matching ratio established by provisions of this section shall be allowed as local matching funds for projects approved for the fiscal years 1970–1971 to 1975–1976, inclusive.

81840. Community college districts which become eligible under the provisions of Section 81839 shall remain eligible beyond the termination date specified in Section 81839 until the district has received a combination of state and district funds in the amount of two hundred fifty-three dollars (\$253) per weekly student contact hour. The number of weekly student contact hours used for the purpose of this section shall be the number used in computing the district relative district ability factor pursuant to Section 81839.

81841. The Department of Finance shall review preliminary plans for a project approved and submitted to it by the chancellor, and the estimated state and district shares in the funding thereof determined by the chancellor. If the Department of Finance approves the preliminary plans, the state's share of the funding thereof for the first fiscal year shall be included in the budget and the Budget Bill submitted to the Legislature at the next ensuing regular session of the Legislature, so that such state funds as may be appropriated therefor by the Legislature shall be available to the community college district as soon as practicable after the commencement of the next ensuing fiscal year.

81842. The capacity of a project or portion of a project for which an aviation maintenance technician school certificate has been received from the Federal Aviation Administration, shall be determined by using, as a component in the formula for space standards, 510 square feet per station.

81843. Portions of the state's share of any project not appropriated to the community college district pursuant to Section 81841, may be included in the budget and the Budget Bill submitted by the Governor for either or both of the next two succeeding fiscal years, as determined by the Department of Finance.

81844. A community college district may begin work on, or receive or award bids for, any portion of an approved project prior to the appropriation by the Legislature of the state's share of the funding thereof pursuant to Section 81841, if such district has demonstrated both of the following facts to the satisfaction of the Board of Governors of the California Community Colleges and the Department of Finance:

(a) The capital construction program of the district and the construction dates contained therein support the need of the district to begin work on, or award bids for, the project before the appropriation is made.

(b) The district has the financial capability to complete the work begun before the appropriation is made in the event the Legislature fails to appropriate the necessary state funding.

For the purposes of this section, an "approved project" is a project which has been approved by the chancellor pursuant to Section 81838, and approved by the Department of Finance pursuant to Section 81841 after April 1, 1971.

The Department of Finance shall review preliminary plans for the 1975-76 Capital Outlay Program for a project approved and submitted to it by the chancellor, and the estimated state and district shares in the funding thereof determined by the chancellor. If the Department of Finance approves the preliminary plans, such approval shall not preclude reimbursement of the district by future state funding pursuant to Section 81841, nor shall preferential consideration be granted because of such approval.

81845. The governing board of a community college district may include a proposed site in its plans for a project and may enter into

an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or a lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

#### CHAPTER 5. COMMUNITY COLLEGE REVENUE BOND ACT OF 1961

81900. This chapter may be cited as "the Community College Revenue Bond Act of 1961."

81901. The governing board of any community college district may issue revenue bonds pursuant to this chapter.

81902. The following terms wherever used or referred to in this chapter, or in any indenture entered into pursuant hereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Board" means the governing board of a community college district.

(b) "Community college" means a community college maintained by the district issuing bonds under this article.

(c) The term "project" means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped and operated by the board for use by students, faculty members or other employees of any one or more community colleges, or a combination of such facilities, which may include facilities already completed and facilities authorized for future completion, designated by the board as a project in providing for the issuance of revenue bonds.

(d) The term "bonds" or "revenue bonds" means the written evidence of any obligation issued by the board, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this chapter, irrespective of the form of such obligations.

(e) The term "revenues" means and includes any and all fees, rates, rentals and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind

and character derived by, the board from the operation of or arising from a project, including any such revenue as may have been or may be impounded or deposited in any fund in the county treasury created by this chapter for the security of any revenue bonds issued hereunder, or for the purpose of providing for the payment thereof or the interest thereon.

(f) The "holder of bonds" or "bondholder" or any similar terms shall mean any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any such outstanding revenue bond or bond which shall at the time be registered other than to bearer.

(g) The term "indentures" means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether such agreement is expressed in the form of a resolution of the board or by other instrument.

(h) The term "person" includes any individual, firm, corporation, association, copartnership, trust, business trust or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district or any agency thereof or of this state.

(i) "County treasurer" means the treasurer of the county in which all or a majority of the assessed valuation of the district lies at the time bonds are issued under this chapter.

(j) "County" means the county, or city and county, in which all or a majority of the assessed valuation of the community college district lies at the time bonds are issued under this chapter.

81903. The board, for the purpose of this chapter, has power and is hereby authorized, in addition to and amplification of all other powers conferred upon said board by the Constitution of the State of California or by any statute of the State of California:

(a) To acquire subject to the state law, by grant, purchase, gift, devise, lease, or by the exercise of the right of eminent domain, and to hold and use any real or personal property necessary or convenient or useful for the carrying on of any of its powers pursuant to the provisions of this chapter.

(b) To construct, operate and control any project.

(c) To fix rates, rents or other charges for the use of any project acquired, constructed, equipped, furnished, operated or maintained by the board, or for services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the board with respect to the fixing of such rates, rents or charges.

(d) To enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any such contract or agreement with the holders of any bonds of the board.

(e) At any time and from time to time to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping or furnishing any project, or of refinancing any

project, or for any combination of such purposes, which bonds may be secured as hereinafter provided.

(f) To exercise, subject to state law, the right of eminent domain for the condemnation of private property or any right or interest therein.

(g) To adopt such rules and regulations as may be necessary to enable the board to exercise the powers and to perform the duties conferred or imposed upon the board by this chapter.

(h) Nothing contained in this section or elsewhere in this article shall be construed directly or by implication to be in any wise in derogation of or in limitation of powers conferred upon or existing in the board by virtue of provisions of the Constitution or statutes of this state.

81904. The validity of the authorization and issuance of any revenue bonds by the board is not dependent on nor affected in any way by:

(a) Proceedings taken by the board for the acquisition, construction or completion of any project or any part thereof.

(b) Any contracts made by the board in connection with the acquisition, construction or completion of any project.

(c) The failure to complete any project for which bonds are authorized to be issued.

81905. The board shall issue revenue bonds in its name and as its obligation, but no bond issued or sold pursuant to this chapter shall be or become a lien, charge or liability against the State of California, against the community college district, or against the board or against the property or funds of the state, district, or board, except to the extent of the pledge of revenues or part of revenues of the project, as may be provided by the indenture pursuant to which revenue bonds are issued, and every such bond issued by the board shall contain a recital on the face thereof, stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability or obligation of the State of California or of the community college district.

81906. The board shall determine the time, form and manner of the issuance of revenue bonds.

81907. The community college board may enter into indentures providing for the aggregate principal amount, date or dates, maturities, interest rates, denominations, form, registration, transfer and interchange of any revenue bonds and coupons issued pursuant to this chapter, and the terms and conditions on which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. Reference on the face of the bonds to such indenture by its date of adoption, or the apparent date on the face thereof, is sufficient to incorporate all of the provisions thereof and of this chapter into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this chapter, and is bound thereby.

81908. An indenture pursuant to which bonds are issued may include any and all such covenants and agreements on the part of the board as the board deems necessary or advisable for the better security of the bonds issued thereunder.

81909. An indenture may provide that payments of principal and interest of bonds shall be secured by all or by part of revenues.

81910. An indenture may include a clause relating to the bonds issued thereunder requiring the board to pay or cause to be paid punctually the principal of all such bonds and the interest thereon on the date or dates, or at the place or places, and in the manner mentioned in such bonds and in the coupons appertaining thereto in accordance with such indenture.

81911. An indenture may include a clause relating to the bonds issued thereunder, requiring the board to operate the project continuously, to the extent practicable under conditions as they may from time to time exist, in an efficient and economical manner.

81912. An indenture may include a clause relating to the bonds issued thereunder requiring the board to make all necessary repairs, renewals and replacements to any project, and to keep the project at all times in good repair, working order and condition.

81913. An indenture may include a clause relating to the bonds issued thereunder requiring the board to preserve and protect the security of the bonds and the rights of the holders thereof and to warrant and defend such rights.

81914. An indenture may include a clause relating to the bonds issued thereunder requiring the board to pay and discharge or cause to be paid and discharged all lawful claims for labor, materials and supplies or other charges which, if unpaid, might become a lien or charge upon the revenues, or any part thereof, of any project acquired, constructed or completed from the proceeds of the sale of the bonds, or upon any physical properties, or which might impair the security of the bonds.

81915. An indenture may include a clause relating to the bonds issued thereunder which limits, restricts, or prohibits any right, power or privilege of the board to mortgage or otherwise encumber, sell, lease or dispose of any improvements constructed from the proceeds of the bonds, or to enter into any lease or agreement which impairs or impedes the operation of a project, or any part thereof, necessary to secure adequate revenues or which otherwise impairs or impedes the rights of the holders of the bonds with respect to such revenues.

81916. An indenture may include a clause relating to the bonds issued thereunder requiring the board to fix, prescribe and collect rates, rentals or other charges in connection with the services and facilities furnished from the project acquired, constructed or purchased from part or all of the proceeds of the bonds, sufficient to pay the principal of and interest on the bonds as they become due and payable, together with such additional sums as may be required

for any fund created by this article, for the further security of such bonds or as a depreciation charge or other charge in connection with such project.

81917. An indenture may include a clause relating to the bonds issued thereunder requiring the board to hold or cause to be held in trust the revenues or any part of revenues pledged to the payment of such bonds and the interest thereon, or to any reserve or other fund created by this article for the further protection of the bonds, and to apply such revenues or any part of revenues or cause them to be applied only as provided in the indenture.

81918. An indenture may include a clause defining the power of the board in applying the proceedings of the sale of any issue of bonds for the acquiring, constructing, or completing of any project or any part thereof.

81919. An indenture may include a clause limiting the power of the board to issue additional bonds for the purpose of acquiring, constructing or completing any project or any part thereof.

81920. An indenture may include a clause requiring, specifying or limiting the kind, amount and character of insurance to be maintained by the board on any project, or any part thereof, and the use and disposition of the proceeds of any such insurance thereafter collected.

81921. An indenture may include a clause providing the events of default and the terms and conditions upon which any or all of the bonds of the board then or thereafter issued may become or be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

81922. An indenture may include a clause designating the rights, limitations, powers and duties arising upon breach by the board of any of the covenants, conditions, or obligations contained in any indenture.

81923. An indenture may include a clause prescribing a procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the board and the vote or written assent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding. Such clause may provide for meetings of bondholders and for the manner in which the consent of the bondholders may be given. The clause shall specifically state the effect of such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom.

With respect to any clause providing for the modification or amendment of an indenture, the board may agree that bonds held by the county treasurer, the United States or any instrumentality thereof, or the State of California or any political subdivision thereof (including every municipal corporation, district, public corporation, board or agency of any kind or class) shall not be counted as

outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any such modification or amendment.

81924. An indenture may include a clause or clauses providing for such other acts and matters as may be necessary or convenient or desirable in order better to secure the bonds or to make the bonds more marketable.

81925. The county treasurer shall act as trustee for the board and the holders of bonds issued hereunder, and the board may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders. The board may provide in the indenture for the deposit of all revenues received from the project with such trustee to be held in a separate account in the community college dormitory revenue fund of the district created by this article. The money in such fund shall be disbursed only as provided in the indenture.

81926. The board shall prescribe the duties and powers of any such trustee with respect to the issuance, authentication, sale and delivery of the bonds and the payment of principal and interest thereof, the redemption of the bonds, the registration and discharge from registration of the bonds, and the management of any sinking fund or other funds provided as security for the bonds.

81927. The board may provide for one or several issues of bonds and may issue bonds in series or may divide any issue into one or more divisions and fix different maturities or dates of such bonds, different rates of interest, or prescribe different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms thereof shall in each case be provided for by the board at or prior to the issue thereof.

81928. Bonds may be issued as coupon bonds or as registered bonds. The board may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the board may determine.

81929. Bonds shall bear interest at a rate of not to exceed 8 percent per annum, payable annually or semiannually or in part annually and in part semiannually.

81930. Bonds may be callable upon such terms, conditions, and upon such notice as the board may determine, and upon the payment of such premium as may be fixed by the board in the proceedings for the issuance of the bonds. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the bond.

81931. The board may provide for the payment of the principal and interest of bonds at any place within or without the State of California, and in specified coin or currency of the United States.

81932. The board may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of officers of the board and by additional authentication by the county treasurer as trustee. If any of the officers whose signatures or countersignatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

81933. Bonds shall bear dates prescribed by the board. Bonds may be serial bonds or sinking fund bonds with such maturities as the board may determine. No bond by its terms shall mature in more than 50 years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

81934. Immediately after the adoption of a resolution by the board, directing the preparation of any bonds authorized under this article, the county treasurer shall prepare the requisite number of suitable bonds of the denominations, and in accordance with the specifications contained in such resolution.

81935. When the bonds authorized to be issued under this chapter shall be duly executed, they shall be sold by the county treasurer, for cash, in such parcels and numbers as the said treasurer shall be directed by the board, after a resolution requesting such sale shall have been adopted by the board. Before offering any of said bonds for sale, the said treasurer shall detach therefrom all coupons, if any, which have matured or will mature before the day fixed for such sale.

81936. Bonds may be sold at either public or private sale. The board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The county treasurer, when authorized by resolution of the board, may sell bonds at less than their par or face value, but no bond may be sold at a price below the par or face value thereof which would result in a sale price yielding to the purchaser an average of more than 8 percent per annum, payable semiannually, according to standard tables of bond values.

81937. The board may provide for the security of bonds. The board may use and expend all or any part of any funds or proceeds of any property owned by it, whether received by gift, appropriation or otherwise, if not restricted as to the use of such funds or proceeds of property by the terms of any gift or trust or provision of law for the redemption of bonds issued pursuant to the provisions of this chapter and the payment of interest due thereon.

81938. All costs and expenses incident to the issuance and sale of bonds may be paid out of the proceeds of the sale of the bonds. Interest on bonds may be paid out of the proceeds of the sale of the

bonds during the actual construction of any project for the acquisition, construction or completion of which the bonds have been issued, and for a period of not to exceed two years thereafter as provided for in the indenture.

81939. The board may provide that the bonds and the interest thereon shall be secured by all or by part of revenues of a project upon the basis of which revenue bonds are issued or authorized to be issued, and shall constitute such lien upon the revenues of such project as may be provided for in the indenture.

81940. Pending the actual issuance or delivery of revenue bonds, the board may issue temporary or interim bonds, certificates or receipts of any denomination whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

81941. The board may provide for the replacement of lost, destroyed or mutilated bonds, or coupons.

81942. Bonds issued pursuant to the provisions of this chapter and the interest or income therefrom are exempt from all taxation in this state other than gift, inheritance and estate taxes.

81943. Notwithstanding any other provision of law, all bonds sold and delivered pursuant to this chapter are legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the state school funds, and any public or private funds which may be invested in county, municipal or community college district bonds, and may be deposited as security for the performance of any act whenever the bonds of any county, municipality or community college district may be so deposited, and may also be used as security for the deposit of public moneys in banks in this state.

81944. The board may provide for the issuance, sale, or exchange of refunding bonds for the purpose of redeeming or retiring any revenue bonds issued under the provisions of this chapter. All provisions of this chapter applicable to the issuance of revenue bonds are applicable to the funding or refunding bonds and to the issuance, sale or exchange thereof.

81945. Funding or refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be funded or refunded thereby, and in addition for the payment of all expenses incident to the calling, retiring or paying of such outstanding bonds, and the issuance of such funding or refunding bonds. These expenses include the difference in amount between the par value of the funding or refunding bonds and any amount less than par for which the funding or refunding bonds are sold, any amount necessary to be made available for the payment of interest upon such funding or refunding bonds from the date of sale thereof to the date of payment of the bonds to be funded or refunded or to the date upon which the bonds to be funded or refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and the premium, if any, necessary to be paid in order to call or retire

the outstanding bonds and the interest accruing thereon to the date of the call or retirement.

81946. All bonds issued under the provisions of this article are negotiable instruments, except when registered in the name of a registered owner.

81947. Before issuing any bond or bonds pursuant to the provisions of this chapter, the board shall by resolution declare the purpose for which the proceeds of the bonds proposed to be issued shall be expended and shall specify the maximum amount of bonds to be issued or sold for such purpose, and bonds shall not be issued or sold for such purpose in an amount exceeding such specified maximum except with the consent of bondholders, pursuant to amendment or modification of an indenture, as provided in Section 81923. Nothing in this section contained shall be construed to prevent the board from amending any such resolution prior to the issuance of bonds authorized thereby to increase or decrease the maximum amount of bonds to be issued or sold. The issuance of bonds for one or more projects may be included in a single resolution of authorization.

81948. The board has full charge of the acquisition, construction and completion of all projects authorized by them and may proceed with such work forthwith.

81949. The board may construct any project and acquire all property necessary therefor on such terms and conditions as it may deem advisable. When any part of the work is to be done or performed by any public body or by the United States jointly or in conjunction with the board, the portion of the cost thereof to be borne by the board may be turned over to the government of the United States or to any other public body to be expended by it in the acquisition, construction or completion of the project.

81950. Title to all property acquired by the board and the revenues and income therefrom is in the community college district. The title to any moneys, revenues, sinking funds, reserve funds and other funds created by this chapter and the income thereof pledged to the payment of the principal or interest or any bonds issued thereunder is subject to trusts declared in favor of the bondholders. All such property, and the income therefrom, are exempt from all taxation by the State of California or by any county, city and county, city, district, political subdivision or public corporation thereof.

81951. At all times the operation, maintenance, control, repair, construction, reconstruction, alteration and improvement of any project are vested in the board subject to such authorized leases as may be permitted by any indenture. The board shall comply with all applicable county and city zoning, building and health regulations.

81952. The board may use for the payment of the costs of acquisition, construction or completion of any project any funds made available to the board by the State of California or any other funds provided by the board from any source, to be expended for the accomplishing of the purposes set forth in this chapter, together with

the proceeds of revenue bonds issued and sold by the board.

81953. The board may insure against loss of revenues from any cause whatsoever and the proceeds of any such insurance shall be used solely for the payment of bonds and the interest thereon.

81954. The board may insure against public liability or property damage. The board may provide in an indenture for the carrying of such or any other insurance in such amount and of such character as it shall determine, and for the payment of the premiums thereon.

81955. When authorized by resolution of the board, as provided in this chapter, the county treasurer shall prepare and procure the printing or engrossing of bonds, coupons, indenture or other instruments and contracts or agreements of every kind required or convenient for or pertaining to the issuance or sale of bonds.

81956. The board shall fix rents, charges and fees for all projects acquired, constructed or completed under the terms of this article for the use thereof by any persons utilizing the facilities thereof, subject to such contractual obligations as may be entered into by the board and the holders of bonds issued under this chapter. The board is authorized to change rents, charges and fees from time to time, as conditions warrant. All rents, charges and fees shall at all times be fixed to yield annual revenue equal to annual operating and maintenance expenses, including repairs and insurance costs and all redemption payments and interest charges and reserve fund requirements on revenue bonds at any time issued and outstanding hereunder, as the same become due.

81957. Rent, charges, and fees collected in error may be refunded by the board in accordance with regulations prescribed by the board. Refunds of rent, charges, and fees collected for facilities requested by students and not utilized by them may be made for good cause by the board in such amounts and under such conditions as may be prescribed by regulations adopted by the board.

81958. The board may include in an indenture such limitations as to competitive projects, both as to location and comparative rentals, as may be deemed necessary or desirable for the security of revenue bonds issued pursuant to this chapter.

81959. The board may also include in an indenture a covenant that no project acquired, constructed or completed from the proceeds of revenue bonds issued under the provisions of this chapter shall be used without charge therefor or any facilities thereof be furnished free of charge to any person.

81960. The holder of any bond issued pursuant to this article may by mandamus or other appropriate proceeding require and compel the performance of any of the duties imposed upon the board or upon any official or employee or assumed by any thereof, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of any project, or the collection, deposit, investment, application and disbursement of rents, rates, charges, fees and all other revenues derived from the operation and use of any project or in connection with the deposit,

investment and disbursement of the proceeds received from the sale of bonds under this chapter. The enumeration of such rights and remedies do not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this chapter.

81961. The proceeds from the sale of all bonds authorized under the provisions of this chapter shall be deposited forthwith by the county treasurer, on order of the county auditor, in the county treasury to the credit of a fund to be designated as the community college dormitory construction fund of the district, which fund is hereby created in each county treasury for each district in the county issuing bonds pursuant to this chapter. The money in such construction fund shall be expended, pursuant to claims filed by the board with the county auditor, for the purposes authorized by this chapter, or as provided in the indenture, and for such other purposes, subject to the restrictions provided by law or by the indenture, as may be authorized by resolution of the board. Moneys required to meet the costs of acquisition or construction and all expenses and costs incidental to the acquisition, construction, furnishing and equipping of any project authorized by this chapter shall be paid from the said construction fund as herein provided upon claim filed by the board and after audit by the county auditor in the manner provided by law and upon warrants drawn by the county auditor.

81962. All revenues received from the operation of any project acquired or constructed by the board under the provisions of this chapter shall be transmitted by the board at least once in every calendar month, to the county treasurer. On order of the county auditor, the county treasurer shall deposit such revenues in the county treasury to the credit of the community college dormitory revenue fund of the district, which fund is hereby created in each county treasury for each district in the county issuing bonds under this chapter. Moneys in the community college dormitory revenue fund shall be used to pay the costs of operation and maintenance of the projects authorized by this chapter, including refunds authorized by Section 81975, to provide the amounts required for interest and redemption of bonds as provided in this chapter, and for any other purposes authorized by resolution of the board, subject to any restrictions provided by law or the indenture.

81963. For the payment of the principal and interest of the bonds authorized to be issued under this chapter, an interest and redemption fund is hereby created in each county treasury for each community college district issuing bonds under this chapter, to be designated the community college dormitory interest and redemption fund of the district. From the money deposited in the community college dormitory construction fund of the district, the county treasurer, on order of the county auditor, shall transfer to the community college dormitory interest and redemption fund of the district such sums as may be required to pay the interest as it becomes due on all bonds sold and outstanding for the construction

or acquisition of a particular project of the district authorized under this chapter during the period of actual construction or acquisition thereof and during such period thereafter as may be provided in the indenture or authorized by resolution of the board. The county treasurer, on order of the county auditor, shall thereafter transfer from the community college dormitory revenue fund of the district to the community college dormitory interest and redemption fund of the district such sums as may be required to pay the interest on said bonds and redeem the principal thereof as such interest payments and bond redemptions fall due for all bonds issued under the provisions of this chapter.

81964. Any balance remaining in any of the funds created by this chapter after payment of all costs, expenses, and charges authorized to be expended therefrom, may be allocated and used for such other purposes incidental to the acquisition, construction, furnishing, equipping, operation and maintenance of such projects authorized under the provisions of this chapter as the board may determine.

81965. Moneys in the community college dormitory construction fund of each district may be invested by the board, subject only to such limitations as may be provided in an indenture providing for the issuance of revenue bonds. All securities or other investments made under the provisions of this chapter shall be held by the county treasurer as custodian thereof. All interest or other earnings received pursuant to such investments shall be collected by the county treasurer, and, on order of the county auditor, shall be deposited in the county treasury to the credit of the fund from which such interest or other earnings are derived.

81966. After all of the revenue bonds shall have been fully paid and discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in the community college dormitory construction fund of a district shall, subject to the limitations and restrictions in any indenture providing for the issuance of the revenue bonds, remain available for the acquisition of sites for, and for the construction, equipping and furnishing of, buildings for community colleges maintained by the district.

81967. This chapter shall be liberally construed to carry out the objects and purposes and the declared policy of the State of California as in this chapter set forth.

## CHAPTER 6. COMMUNITY COLLEGE CONSTRUCTION

### Article 1. Legislative Intent

82100. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state and the education of community college students is a joint obligation and function of

both the state and community college districts.

In adopting this chapter, the Legislature considers that the greatest need is to provide community college facilities that will be required to house the great increase of community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

## Article 2. Definitions and Administration

### 82110. Definitions:

(a) "Community college district" means any district maintaining a community college that is effective for all purposes on July 1, 1963.

(b) "Board of Governors" means the Board of Governors of the California Community Colleges.

(c) "Project" means the purposes for which a community college district has applied for assistance under this chapter. A project may include the acquisition and improvement of community college sites, the planning and construction of permanent community college facilities, and the acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, or single-purpose auditoriums.

(d) "Unit of average daily attendance" means a unit of average daily attendance during the preceding fiscal year in a graded class in grade 13 or 14 exclusive of summer school of a community college of students who are residents of the applicant district and who are not adults as defined in Section 78460.

(e) "The average cost of providing community college facilities" means the cost per unit of average daily attendance housed in community college facilities constructed during the two preceding years as determined by the board of governors after consultation with the Division of Architecture.

82111. This chapter shall be administered by the board of governors. The board of governors shall adopt such rules and regulations as it deems necessary to carry out the purposes of this chapter.

## Article 3. Applications

82120. Any community college district may apply for assistance under this chapter to undertake one or more projects, on or before December 1, 1963.

82121. Applications for assistance under this chapter to undertake a project shall be made on forms prescribed and furnished by the board of governors. Such forms shall include, but not be limited to, the following data and information:

(a) An outline and general description of the project to be undertaken.

(b) An estimate of the cost of the project to be undertaken and

the anticipated source of funds to complete the project.

(c) The estimated units of average daily attendance in growth for a two-year period determined by Section 82122.

(d) The present average daily attendance of the district as determined by Section 82123.

(e) A two-year projection of the average daily attendance of the district as defined and determined by Section 82124.

82122. The estimated units of average daily attendance in growth for a two-year period means the sum of 5 percent of the total units of average daily attendance as defined in subdivision (d) of Section 82110 in the district in each of the 1961-62 and 1962-63 fiscal years.

For the purposes of this section, the estimated units of average daily attendance in growth of a community college district that was not in existence for all purposes for two years prior to July 1, 1963, shall be determined by the board of governors by computing 10 percent of 42 percent of the sum of the enrollments of the 12th grade on October 31, 1961, and October 31, 1962, in all high school or unified districts which on the date the estimate is made are contained in the community college district. For the purposes of this section a newly formed district which includes a district which maintained a community college shall not be deemed to be a new district.

82123. Present average daily attendance means the number of units of average daily attendance of nonresident students in attendance in the graded community college classes of the district plus the average daily attendance of students in graded community college classes who are residents of the applicant district excluding the attendance of adults as defined by Section 78460 and the attendance in summer school during the last completed year preceding the deadline date for making the application.

For the purposes of this section the present average daily attendance of a community college district which has not maintained graded community college classes in any of the years preceding the deadline date for making application shall be determined by the department on the basis of the October report of enrollment of such district and in accordance with rules and regulations of the board of governors which it is herewith authorized to adopt.

82124. A two-year projection of average daily attendance means the difference between present average daily attendance as defined in Section 82123 and the number of units of average daily attendance of such students in graded classes, excluding adults as adults are defined in Section 78460 and the attendance in summer school, reported for the year during the preceding two years in which the least number of units of average daily attendance were reported, multiplied by the ratio of average daily attendance of resident students to present average daily attendance.

For any district that has not maintained graded community college classes during all of the three fiscal years preceding the date of making the application, a two-year projection of average daily attendance means twice the difference between present average

daily attendance as defined in Section 82123 and the number of units of average daily attendance of such students in graded classes, excluding adults as adults are defined in Section 78460 and the attendance in summer school, reported for any of the three fiscal years preceding the date of making the application, or the quotient of 1 percent of the assessed valuation of the district and the average cost of providing community college facilities during the two preceding years as determined by the board of governors after consultation with the Division of Architecture, whichever is greater, multiplied by the ratio of average daily attendance of resident students to present average daily attendance. For the purposes of this section a newly formed district which includes a district which maintained a community college shall not be deemed to be a new district.

#### Article 4. Entitlement and Reservation of Funds

82130. For each community college district eligible to receive a tentative entitlement, the department, within 30 days after the deadline date for submitting applications, shall compute an entitlement by:

(a) Dividing the average assessed valuation per estimated unit of average daily attendance in growth for a two-year period in all community college districts in the state eligible to receive a tentative entitlement by the assessed valuation per estimated unit of growth for a two-year period in the district as determined by Section 82122.

(b) Multiplying the quotient derived under subdivision (a) by the estimated units of average daily attendance in growth for a two-year period in the district as determined by Section 82122.

(c) Multiplying the product derived for each community college district under subdivision (b) by one-fourth of the average cost of providing community college facilities. If the total of these products is more than ten million dollars (\$10,000,000), it shall be deemed to be only ten million dollars (\$10,000,000) and adjustments made for each community college district.

(d) Dividing the average assessed valuation per unit of the two-year projection of average daily attendance in all community college districts in the state eligible to receive a tentative entitlement by the assessed valuation per unit of the two-year projection of average daily attendance in the district as determined by Section 82124. It is further provided that all equalization factors below .5 shall be deemed to be .5 and all equalization factors above 3.0 shall be deemed to be 3.0.

(e) Multiplying the quotient derived under subdivision (d) by the two-year projection of average daily attendance in the district as determined by Section 82124.

(f) Computing the total of the products derived under subdivision (e) for each community college district.

(g) Dividing the difference between twenty million dollars

(\$20,000,000) and the total of the products derived under subdivision (c) by the total of the products derived under subdivision (f).

(h) Multiplying the quotient derived under subdivision (g) by the product derived under subdivision (e).

(i) Computing the total for each community college district of the products derived under subdivision (c) and subdivision (h).

This total is the maximum tentative entitlement for each community college district and shall constitute a reservation of funds for each eligible applicant district.

82131. The amount of funds reserved for a district shall be continued in reservation until the district is qualified to receive an allocation of funds, but not longer than 54 months after the deadline date fixed by law for filing the applications.

Notwithstanding any provisions of this chapter to the contrary, an entitlement computed for a community college district under Section 82130 may be transferred upon request of that district by the department to a community college district which was formed subsequent to the computation of entitlements under Section 82130 and which includes all of the territory of the district requesting the transfer.

82132. Notwithstanding any provision of this chapter to the contrary, an entitlement computed under Section 82130 for a community college district at the time it made application for the entitlement, may be transferred by the board of governors upon request, to a subsequently formed community college district which made the application for the entitlement.

#### Article 5. District Contributions to Projects

82150. Each community college project for which a reservation of funds is made shall be financed with both state and local funds. The amount of local funds contributed to each project for which application is made by a district shall be at least the difference between the greater of the estimated units of average daily attendance in growth determined for the district under Section 82122 and the two-year projection of average daily attendance determined for the district under Section 82124 multiplied by the average cost of providing community college facilities, and the total of the funds reserved for the district under subdivision (i) of Section 82130, except that the amount of local funds need not exceed three times the amount of state funds in the project. Where a district has become effective for all purposes as of July 1, 1960, and has been formed as a new district to include seventy-five percent (75%) or more of the territory of a county, and has, since becoming effective, authorized bonds equal to one percent (1%) or more of the assessed valuation of the district, and has spent or committed such bond funds for community college facilities, then the amount of local funds need not exceed the amount of state funds in the project.

## CHAPTER 7. SUPPLEMENTARY SERVICES

## Article 1. Transportation

82300. The governing board of any community college district may provide for the transportation of pupils to and from school whenever in the judgment of the board such transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of students to and from school by common carrier or municipally owned transit system, or may contract with and pay responsible private parties for the transportation. Such contracts may be made with the parent or guardian of a minor being transported. A governing board may allow the transportation in schoolbuses owned or operated by the district of preschool or nursery school pupils. No state reimbursement may be received by a district for the transportation of such students.

Whenever the term "municipally owned transit system" appears in this chapter, it means a transit system owned by a city, or by a district created under Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

82301. The governing board of any community college district may contract with the county superintendent of schools to provide necessary transportation services. The county superintendent of schools, acting pursuant to such a contract, shall have all the powers and duties granted to governing boards by this chapter.

82302. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than five thousand dollars (\$5,000) is involved, secure bids pursuant to Sections 81640 and 81641 whenever it be contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of minors to be transported. The governing board may let the contract for the service to other than the lowest bidder. No board shall make any purchase or enter into any contract for the service without securing the written approval of the county superintendent of schools.

82303. (a) Continuing contracts for the furnishing of transportation of students in community college districts to and from school, if made, shall be made for a term not to exceed five years. Such contracts shall be renewable at the option of the district and the party contracting to provide transportation services, jointly, at the end of each term of the contract. The contract as renewed shall include, other than the rates of the previous contract, all of the terms and conditions of the previous contract, including any provisions increasing rates based on increased costs.

(b) Continuing contracts may be made for the lease or rental of schoolbuses, not to exceed five years, except that if such a lease or rental contract provides that the district may exercise an option

either to purchase the buses or to cancel the lease at the end of each annual period during the period of the contract, such contract may be made for a term not to exceed 10 years.

(c) Notwithstanding any other provisions of law to the contrary, continuing contracts executed under the provisions of this section may be negotiated annually within the contract period when economic factors indicate such negotiation is necessary to maintain an equitable pricing structure. Such renegotiation shall be subject to the approval of both contracting parties.

(d) Any rental, lease, or lease-purchase of a schoolbus shall comply with all applicable provisions of Article 16 (commencing with Section 81550) of Chapter 2 of Part 49 of Division 5 of Title 3.

82304. When the governing board provides for the transportation of students to and from school by contract with a common carrier, municipally owned transit system, or responsible private party, the governing board may require the parents or guardians of all or some of the students transported to pay a portion of the cost of such transportation in an amount determined by the board. The amount determined by the board shall be no greater than that paid for transportation on a common carrier or municipally owned transit system by other students in the district who do not use the transportation provided by the contract of the district. No charge under this section shall be made for the transportation of handicapped students.

82305. In bidding on contracts to be made pursuant to Section 82303, bidders may include in their bids abstractions of their quotations indicating the pricing structure used to compute the annual lease or rental payments for the sole purpose of identifying that portion of each annual lease or rental payment which may represent tax exemption reimbursement to the vendor, lessor or to their assignees.

82305.5. The governing board of a community college district may contract for the transportation of matriculated or enrolled adults, or provide transportation to adults in district-owned equipment for educational purposes other than to and from school.

Any district which contracts to provide or provides transportation to adults pursuant to this section may charge adults all or part of the costs of contracting for or providing such transportation services.

82305.6. When the governing board of a community college district provides for the transportation of students to and from schools in accordance with the provisions of Section 82300, the governing board of the district may require the parents and guardians of all or some of the students transported, to pay a portion of the cost of such transportation in an amount determined by the governing board provided that such district does not qualify to receive reimbursement from the State School Fund for transportation under Article 9 (commencing with Section 84810) of Chapter 5 of Part 50 in the year in which the requirement to pay is made. The amount determined by the board shall be no greater than

that paid for transportation on a common carrier or municipally owned transit system by other students in the district who do not use the transportation provided by the district. The governing board shall exempt from such charges students of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of handicapped students. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of students in the community colleges.

82306. In lieu of providing in whole or in part for the transportation of a student attending the schools of a district, the governing board may pay to the parents or guardian of the minor a sum not to exceed the cost of actual and necessary travel incurred in transporting such students to and from the regular day schools of the district. No payments shall be made pursuant to this section unless it will be more economical to make the payments than to provide for said transportation.

82307. In lieu of furnishing transportation to students attending the schools of a community college district, the governing board may pay to the parents or guardian of each minor the cost of food and lodging of the minor at a place convenient to the schools. The amount paid on account of each minor shall not exceed the estimated cost to the district of providing for the transportation of the minor to and from his home and the school he attends.

## Article 2. Schoolbuses

82320. The cost of maintaining schoolbuses may be paid out of any funds of the district except funds derived from the sale of bonds and funds required by law to be set aside for teachers' salaries.

82321. A schoolbus is defined as any motor vehicle while being used for the transportation of any student at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight students and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs but not used exclusively for the transportation of students.

(e) A motor vehicle operated by a common carrier, or by and

under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport students to and from school activities but not used regularly to transport students to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

This section shall become operative on January 1, 1977.

(Repealed and added by renumbering Section 82321 5 by Stats 1976, Ch. 1011 )

[ORIGINAL SECTION]

82321. A schoolbus is defined as any motor vehicle while being used for the transportation of any student at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight students and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs and which is available to the general public

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport students to and from school activities but not used regularly to transport students to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction

This section shall remain in effect only until January 1, 1977, and as of that date is repealed.

82321 5 (Amended and renumbered Section 82321, by Stats. 1976, Ch 1011 )

[ORIGINAL SECTION]

82321.5 A schoolbus is defined as any motor vehicle while being used for the transportation of any student at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver

(b) A 9-passenger or 10-passenger station wagon when used for the transportation

of not more than eight students and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs but not used exclusively for the transportation of students.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport students to and from school activities but not used regularly to transport students to and from a public or private school

Notwithstanding any other provisions of this section, the governing board of a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

This section shall become operative on January 1, 1977

### Article 3. Contracts for Transportation

82340. The governing board of any community college district may contract for the transportation of students attending schools within the district to and from any exposition or fair, school activities, or other activities which the governing board determines to be for the benefit of the students, in this state, and may pay for the transportation out of any funds of the district available for the purpose.

### Article 4. Cafeterias—Establishment

82360. The term "cafeteria" as used in this code is considered synonymous with the term "food service."

82361. The governing board of any community college district may establish cafeterias in the schools under its jurisdiction whenever in its judgment it is advisable to do so.

82362. Food shall not be sold at any cafeteria operated by a community college district to anyone except students and employees of any community college district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act; and provided further, that the governing board of any district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section.

82363. Perishable foodstuffs and seasonal commodities needed in the operation of cafeterias may be purchased by the community

college district in accordance with rules and regulations for such purchase adopted by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

82364. The food served shall be sold to the patrons of the cafeterias at such a price as will pay the cost of maintaining the cafeterias, exclusive of the costs made a charge against the funds of the community college district by this chapter, and items made a charge against the funds of the community college district by resolution of the governing board under authority of this chapter.

#### Article 5. Cafeterias—Funds and Accounts

82370. Money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of the "cafeteria fund" of the particular community college district.

82371. The cafeteria fund shall be used only for such expenditures as are necessary for the operation of school cafeterias. However, when the governing board deems it necessary, it may make expenditures from the cafeteria fund for the lease or purchase of additional cafeteria equipment for the central food processing plant, and of vending machines and their installation and housing.

The governing board of any community college district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.

82372. The governing board of any community college district may establish an account for each cafeteria established in a school of the district, or for all cafeterias established in the schools of the district, in one or more banks. The account shall be known as "The Cafeteria Account of (insert name of district) District." If the account is established for one of several cafeterias, it shall be known as "The Cafeteria Account of the (insert name of school) School of (insert name of district) District." All receipts of the cafeteria, or cafeterias, as the case may be, derived from the sale of food shall be deposited in the account and shall be expended only for the maintenance of the cafeteria, or cafeterias, exclusive of items made a charge against the funds of the community college district by this chapter, and items made a charge against the funds of the district by resolution of the governing board under authority of this chapter.

82373. The governing board of the community college district shall designate an employee or employees of the district to have

custody of the account or accounts, who shall be responsible for the payment into the account or accounts of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes.

82374. Upon the order of the governing board of any district having a cafeteria fund in the county treasury and establishing an account, or accounts, the county treasurer shall deposit the money in the fund to the account, or accounts, and shall notify the county auditor and county or city and county superintendent of schools of his action. If the money is to be deposited in more than one account, the governing board of the district shall designate the amount to be placed in each account.

#### Article 6. Cafeterias—Allocation of Charges

82380. The cost of housing and equipping cafeterias is a charge against the funds of the community college district. However, when the governing board of a community college district deems it necessary, the governing board may make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds. If community college district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, the governing board may at any time within five years after such expenditure reimburse community college district funds from cafeteria funds.

The governing board of a community college district may by resolution make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the community college district.

The governing board of any community college district, or of two or more school districts governed by governing boards of identical personnel, having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year, may also make the cost of the construction, alteration, or improvement of a central food processing plant and the installation of additional cafeteria equipment a charge against cafeteria funds. If district funds are expended for these purposes, the governing board also may at any time within five years after such expenditure reimburse district funds from cafeteria funds.

82381. The governing board of any community college district operating school cafeterias may establish and maintain a cafeteria fund reserve for the replacement of wornout or obsolete cafeteria equipment, to be known as the accumulative cafeteria equipment replacement reserve. The funds for this reserve are to be derived

from the sales of food in the school cafeterias in an amount to be determined by the governing board and may be accumulated from year to year until expended for this purpose.

Each community college district maintaining an accumulative cafeteria equipment replacement reserve may include in the annual cafeteria fund budget of the district an amount to be allocated to said reserve, as determined by the governing board, which amount shall be a charge against the operations of the cafeterias for that year as a depreciation cost for wear and tear on cafeteria equipment. The cost of replacing cafeteria equipment may be charged to the accumulative cafeteria equipment reserve of the cafeteria fund of the district.

Nothing in this section shall prohibit any community college district from replacing cafeteria equipment from district funds as provided in Section 82380 of this chapter.

82382. The governing board of a community college district shall employ persons for food service positions as a part of the classified service. Wages, salaries and benefits including employer retirement contributions for all food service personnel shall be paid from the general fund of the community college district. Costs of wages, salaries and benefits including employer retirement contributions and other purposes classed as food service shall be excluded from the definition of "current expense of education" as defined in Section 84362. The governing board may, at any time, order reimbursement from the cafeteria fund or the cafeteria account to the general fund of the district for payments under this section in such amounts as it prescribes but not to exceed food service employee salary, wage and benefit costs then incurred or anticipated.

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or the cafeteria account not later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or the cafeteria account shall be considered expenses of the cafeteria fund or the cafeteria account, as the case may be, and only those payments made from the general fund which are not reimbursed from the cafeteria fund or the cafeteria account shall be considered expenses of the general fund.

Accounting for such transactions shall be as prescribed in Section 84030.

## CHAPTER 8. MISCELLANEOUS

## Article 1. Apparatus and Supplies

82500. The governing board of each community college district shall, except as otherwise provided in this code, purchase school furniture, including musical instruments, and apparatus, and such other articles as are necessary for the use of schools, and may, in its discretion, purchase uniforms and other regalia for the use of school bands, orchestras and choirs, and including uniforms and equipment necessary for the use of athletic teams. The provisions of Article 1 (commencing with Section 4300) of Chapter 4 of Division 5 of Title 1 of the Government Code shall not apply to the purchase of musical instruments made pursuant to this section. Any such articles purchased shall always remain the property of the community college district purchasing them.

82501. The governing board of any community college district may purchase any necessary school supplies and equipment, including standard school supplies and equipment listed by the county board of education, in the manner provided in this chapter, or the governing board of any district may purchase such supplies and equipment directly from the vendor. Such direct purchase may be as a single district or two or more districts acting as a cooperative.

82502. The clerk of each community college district shall, under the direction of the board of trustees, provide all school supplies authorized by this chapter.

82503. If in any county a school supply revolving fund is not established, payment for school supplies and equipment purchased through the county superintendent of schools or through the county purchasing agent shall be made by order of the governing board of the community college district purchasing them, in the same manner as other payments are made from community college district funds.

82504. The governing board of each community college district throughout the state shall provide for each schoolhouse under its control, a suitable Flag of the United States, which shall be hoisted above each schoolhouse during all school sessions and on school holidays, weather permitting.

The governing board of each community college district shall provide smaller and suitable United States Flags to be displayed in each schoolroom at all times during the school sessions.

The governing board of each community college district shall enforce this section.

82505. If a board of school trustees of a community college district refuses or neglects to purchase and display United States Flags as provided in Sections 82504 and 82505, the county superintendent of schools shall purchase the flags and direct the instructor or instructors to display the flags as provided by law.

The superintendent shall draw his warrant on the current expense fund of the district in payment of the cost of such flags as he finds

necessary to purchase.

82506. Writing and drawing paper, pens, inks, blackboards, blackboard erasers, crayon, lead pencils, and other necessary supplies for the use of the schools, shall be furnished under direction of the governing boards of the community college districts.

82507. Charges for supplies shall be audited and paid in the same manner as other claims against the county school fund of the districts.

82508. The governing board of a community college district may pay in advance for postage stamps, permits and services provided by other governmental agencies, subscriptions to, or purchases or rentals of, newspapers, magazines, periodicals, single copies of books, films, filmstrips, recordings, and other publications, and for the maintenance of equipment under agreements not exceeding one year for the district and the schools thereof when such action will result in a decrease in the cost to the district or which cannot be secured without payment in advance.

82509. The governing board of a community college district may rent or lease personal property needed for district purposes.

82510. The governing board of any community college district may rent or purchase academic caps and gowns for faculty use at ceremonies.

82511. The governing board of a community college district may lend school band instruments, music, uniforms, and other regalia to persons who are or have been, during the prior school year, members of the school band for use by them on excursions to foreign countries whether or not such an excursion is sanctioned by the governing board.

The governing board may require the borrower to make a deposit or take other measures to insure that the items borrowed will be returned in usable condition.

## Article 2. Use of School Property, Public Purposes

82530. The governing board of any community college district may grant the use of school buildings or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter.

The governing board of any community college district may grant the use of school buildings or grounds to any church or religious organization for the conduct of religious services for temporary periods where such church or organization has no suitable meeting place for the conduct of such services upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter. Notwithstanding the provisions of Section 82542, the governing board shall charge the church or religious organization using such property for the conduct of religious services an amount at least

sufficient to pay the cost to the district of supplies, utilities and salaries paid school district employees necessitated by such use of such property.

82531. No use shall be inconsistent with the use of the buildings or grounds for school purposes, or interfere with the regular conduct of schoolwork.

82532. No use shall be granted in such a manner as to constitute a monopoly for the benefit of any person or organization.

82533. No privilege of using the buildings or grounds shall be granted for a period exceeding five years in the case of a community college district. The privilege is renewable and revocable in the discretion of the board at any time.

82534. The governing board of a community college district may allow the use of school buildings, facilities, grounds, and equipment for child care or day care programs established in cooperation with any city to provide supervision and activities for children of preschool and elementary school age. The governing board may also provide such supervisory, consultant, custodial, clerical, or other services as it deems advisable with respect to the need of such program and the service to the community.

82535. The governing board of a community college district may grant the use of school buildings, grounds, and equipment without charge to public agencies for the purpose of holding examinations for the selection of personnel, and for the instruction of precinct board members.

82536. The governing board of a community college district may grant the use of school buildings, grounds and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare, and may cooperate with such agencies in furnishing and maintaining such services as the governing board may deem necessary to meet the needs of the community.

82537. There is a civic center at each and every public school building and grounds within the state where the citizens, parent-teachers' association, Camp Fire Girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment appertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside. Governing boards of the community college districts may authorize the use, by such citizens and organizations of any other properties under their control, for supervised recreational activities.

82538. The use of any public schoolhouse and grounds for any meeting is subject to such reasonable rules and regulations as the

governing board of the district prescribes and shall in nowise interfere with the use and occupancy of the public schoolhouse and grounds, as is required for the purposes of the public schools of the state.

82539. The management, direction, and control of the civic center is vested in the governing board of the community college district.

82540. The governing board of the community college district shall make all needful rules and regulations for conducting the civic meetings and for such recreational activities as are provided for in this chapter and which aid, assist, and lend encouragement to the activities.

82541. The governing board of a community college district may appoint a person who shall have charge of the grounds, preserve order, protect the school property, plan, promote, and supervise recreational activities, and do all things necessary in the capacity of a representative of the board.

82542. The use of schoolhouses, property, and grounds pursuant to this chapter shall be granted free, except as otherwise provided by Section 82543, to public agencies, or to senior citizens' organizations or to other organizations, clubs, or associations organized for cultural activities (such as folk and square dancing) and general character building or welfare purposes.

For any other use of schoolhouses, property, and grounds pursuant to this chapter, including uses for which charges may be made under Section 82543, the governing board of a community college district may charge not to exceed an amount sufficient to pay the cost to the district of supplies, utilities, and salaries paid community college district employees necessitated by such use of schoolhouses, property, and grounds of the district.

82543. In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the students of the district or for charitable purposes a charge shall be made for the use of the schoolhouses, property, and grounds which charge shall not be less than the fair rental value for the use of such schoolhouses, property and grounds, as determined by the governing board of the district.

The governing board may, however, permit such use, without charge, by organizations, clubs, or associations organized for senior citizens and for cultural activities and general character-building or welfare purposes, when membership dues or contributions solely for the support of the organization, club, or association, or the advancement of its cultural, character-building or welfare work, are accepted.

82544. Lighting, heating, janitor service, and the services of the person when needed, and other necessary expenses, in connection with the use of public school buildings and grounds pursuant to this chapter, shall be provided for out of the county or special school

funds of the respective community college districts in the same manner and by the same authority as similar services are provided for.

82545. Any use, by any individual, society, group, or organization for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States or of the state by force, violence, or other unlawful means shall not be permitted or suffered.

Any individual, society, group, or organization which commits any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government by force, violence or other unlawful means while using school property pursuant to the provisions of this chapter, is guilty of a misdemeanor.

82546. No governing board of a community college district shall grant the use of any school property to any person or organization for any use in violation of Section 82545.

For the purpose of determination by such governing board whether or not any individual, society, group or organization applying for the use of such school property intends to violate Section 82545, the governing board shall require the making and delivery to such governing board, by such applicant of a written statement of information in the following form:

#### STATEMENT OF INFORMATION

The undersigned states that, to the best of his knowledge, the school property for use of which application is hereby made will not be used for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States by force, violence or other unlawful means;

That \_\_\_\_\_, the organization on whose behalf he is making application for use of school property, does not, to the best of his knowledge, advocate the overthrow of the government of the United States or of the State of California by force, violence, or other unlawful means, and that, to the best of his knowledge, it is not a Communist-action organization or Communist-front organization required by law to be registered with the Attorney General of the United States. This statement is made under the penalties of perjury.

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(Signature)

The community college board may require the furnishing of such additional information as it deems necessary to make the determination that the use of school property for which application is made would not violate Section 82545.

Any person applying for the use of school property on behalf of any society, group or organization shall be a member of such applicant group and, unless he is an officer of such group, must present written

authorization from such applicant group to make such application.

The governing board of any community college district may, in its discretion, consider any statement of information or written authorization made pursuant to the requirements of this section as being continuing in effect for the purposes of this section for the period of one year from the date of such statement of information or written authorization.

82547. Written statements of information as required by Section 82546 need not be under oath, but shall contain a written declaration that they are made under the penalties of perjury, and any person so signing such statements who willfully states therein as true any material matter which he knows to be false, is subject to the penalties prescribed for perjury in the Penal Code.

## PART 50. FINANCE

### CHAPTER 1. STATE FINANCIAL MANAGEMENT AND CONTROL

#### Article 1. Moneys to Districts

84000. No assessor, tax collector, city, city and county, or county treasurer shall charge or receive any fees or compensation for assessing, collecting, receiving, keeping, or disbursing any school moneys, but the whole moneys collected shall be paid to the city, city and county, or county treasurer.

84001. The governing board of every community college district shall pay all moneys received or collected by it from any source and all moneys apportioned to it from taxes levied and collected under the authority of city councils for school purposes, into the county treasury to be placed to the credit of the proper fund of its district. All money collected by the city council or other governing body of any municipality from taxes levied for school purposes when received shall be paid into the county treasury to the credit of the school district for the schools of which the taxes were levied. All deposits and payments required by this section shall be made daily, unless the county superintendent of schools authorizes them to be made weekly or otherwise, but in no event less frequently than monthly.

84002. All moneys received by a community college district or paid into the county or city and county treasury to the credit of the district from state apportionments, county, district or municipal taxes, other than moneys required to be placed in a special reserve fund, a building fund or bond interest and sinking fund, and moneys authorized to be paid into a cafeteria fund or account, or school farm account, or moneys received for the rental or lease of real property which by resolution of the governing board may be deposited in any authorized fund of the district, shall be deposited in the general fund of the district, which fund is continued in existence in each county and city and county treasury.

Nothing in this section shall be construed as discontinuing, nor as affecting the disposition of moneys in emergency cash funds, in revolving funds for warehouse stock, in cafeteria funds or accounts, or school farm accounts, in special reserve funds, in building funds, or in bond interest and sinking funds created or established under this code.

84003. The governing board of a community college district may, by resolution, specify the particular fund or funds maintained for the district into which shall be deposited moneys received for the rental or lease of real property.

84004. The board of governors shall provide for a uniform system of accounting for all community colleges and shall by rule and regulation define and establish methods for accounting for revenues and expenses for community college purposes.

84005. The governing board of each community college district shall report annually the revenues and expenses of the district in accordance with rules and regulations of the board of governors and on forms furnished by the office of the chancellor.

84006. The maximum rate of tax of any community college district is hereby increased by such amount as will produce the amount proposed to be expended by the district pursuant to any lease agreement for plant and equipment as shown by the budget as finally adopted by the governing board of the district for the current fiscal year, less any unencumbered balances remaining at the end of the preceding fiscal year derived from the increase in the rate of tax provided by this section. A district shall not expend any of the revenue for costs incurred under a joint-powers agreement between two community college districts or between a community college district and another district or a governmental agency consummated after July 1, 1973.

The increase provided by this section shall not exceed the rate of tax levied in the county pursuant to Section 2102 during the fiscal year next preceding the formation of the district for all purposes, or ten cents (\$.10) per each one hundred dollars (\$100) of the assessed value of the property within the district, whichever is the greater.

If the district is situated in two or more counties, the increase provided by this section shall not exceed the highest rate of tax levied in any of the counties in which the district is situated pursuant to Section 2102 during the fiscal year next preceding the formation of the district for all purposes, or ten cents (\$.10) per each one hundred dollars (\$100) of the assessed value of property within the district, whichever is the greater.

If at the end of any school year there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance shall be used exclusively in the following school year for the payment of any obligation incurred under the terms of a lease agreement for such school year.

The increases provided by this section to produce the amounts proposed to be expended pursuant to this section shall remain in

effect until the end of the third consecutive fiscal year following the date of the first election at which the first district bond issue for community college purposes is passed, or until the end of any four-year period in which no bond issue is submitted to the voters.

84007. (a) The increase in the maximum rate of tax authorized by Section 84006 shall remain in effect until the end of the seventh consecutive fiscal year following the date of the first election at which a bond issue for a community college was passed in any community college district in which such seventh consecutive fiscal year ends on June 30, 1975, and such first bond issue passed provided for the issuance of bonds at a rate of interest of 5 percent.

(b) The increase in the maximum rate of tax authorized by Section 84006 shall remain in effect until the end of the seventh consecutive fiscal year following the date of the first election at which a bond issue for a community college was passed in any community college district in which such seventh consecutive fiscal year ends on June 30, 1976.

(c) The increase in the maximum rate of tax authorized by Section 84006 shall remain in effect until the end of the seventh consecutive fiscal year following the date of the first election at which a bond issue for a community college was passed in any community college district in which such seventh consecutive fiscal year ends on June 30, 1978.

(d) The increase in the maximum rate of tax authorized by Section 84006 shall remain in effect until the end of the fourth consecutive fiscal year following the date the annexation by the community college district of the territory of a unified school district is effective for all purposes.

84008. The increase in the maximum rate of tax authorized by Section 84006 shall remain in effect until the end of the eighth consecutive fiscal year following the date of the first election at which a bond issue for a community college was passed in any community college district in which such eighth consecutive fiscal year ends on June 30, 1978.

This section shall remain in effect until June 30, 1978, and as of that date is repealed.

84009. Whenever the excess tax rate authorized by the voters of a single high school district of any type at an election prior to the formation of a community college district, the boundaries of which are coterminous with the boundaries of the high school district and which districts are governed by governing boards of identical personnel, is continued at the option of the governing boards of said districts as the maximum combined rate of both of said districts for combined high school and community college purposes pursuant to Section 74127 and the boundaries of such high school and community college districts thereafter become noncoterminous as a result of any community college district organization proceedings pursuant to this chapter or otherwise, such excess tax rate shall be continued at the option of the governing board of the high school district as the

maximum tax rate of said district for high school purposes for a period not to exceed the period of time for which such excess tax rate was so previously authorized by the voters of the high school district and so continued pursuant to said Section 74127.

## Article 2. Accounting, Budget Controls and Audits

84030. The accounting system used to record the financial affairs of any community college district shall be in accordance with the definitions, instructions, and procedures published in the Budget and Accounting Manual, California Community Colleges, as approved by the board of governors and furnished by the board of governors. No accounting manual so approved shall expressly or by implication affect the content of any educational program or objective, except as otherwise specifically provided for by this code. The Legislature hereby finds that such content shall be best determined by those involved in the administration of educational programs, including community college district governing boards, local administrators, instructors, students, and parents.

84031. The accounting system used to record the financial affairs of any community college district shall be designed to provide separate recording and clear distinction between expenditures for salaries of classroom instructors employed by the district and expenditures for other purposes of the district.

As used in this section "salaries of classroom instructors" means:

(a) The salary paid to each instructor employed by the district whose duties require that the full time for which the instructor is employed be devoted to the instruction of students of the district.

(b) The portion of the salary of each instructor whose duties require that a part, but not all, of the full time for which the instructor is employed be devoted to the instruction of students of the district, which is equal to the portion of such full time actually devoted by the instructor to teaching students of the district.

(c) The salary paid to each instructional aide employed by the district, any portion of whose duties are required to be performed under the supervision of an instructor.

As used in this section an "instructor" means an employee of the district employed in a position requiring certification qualifications and whose duties require him to teach students of the district for at least one full instructional period each schoolday for which the employee is employed. An instructional period is the number of minutes equal to the number of minutes of the regular academic period in the community college in which the instructor is employed.

84032. For purposes of determining allowances pursuant to Chapter 4 (commencing with Section 78600), Chapter 5 (commencing with Section 78700), and Chapter 6 (commencing with Section 78800) of Part 48 of this division the board of governors shall require the use of a uniform cost accounting procedure, as set forth in the Program Cost Accounting, of the Budget and Accounting

Manual, California Community Colleges.

84033. For the purpose of achieving clarity and uniformity in the budgeting and reporting of community college district expenditures by funds, whenever certain expenditures for any special program fund, for which a special fund is required by law, are: (1) authorized by law and by action of the governing board to be paid from the general fund of the district, or (2) required by law to be paid from the general fund of the district, the amount estimated or actually required to meet these expenditures shall be transferred or paid from the general fund to the special fund as appropriate.

Any amount transferred or paid in excess of the amount actually required shall be refunded to the general fund.

The board of governors is hereby authorized to adopt rules and regulations governing the method of accounting for said payments and transfers.

84034. Excepting only as provided in Articles 1 and 2 of this chapter, all constitutional and statutory limitations on the purposes for which moneys derived from particular specified sources may be expended, and all statutory provisions relative to the establishment of specified community college district funds, shall be administered by county superintendents of schools, or in the discretion of county auditors, by county superintendents of schools and county auditors by means of budgetary accounting and not by the establishment and maintenance in the county or city and county treasury of special community college district funds.

84035. The governing board of any community college district which, on or after May 28, 1943, has funds in a special reserve fund of the district or any surplus moneys not required for the immediate necessities of the district, is hereby authorized to invest all or any part of such funds in bonds, notes, bills, certificates, debentures or other obligations, issued by the United States of America, or obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee.

Any bonds, notes, bills or certificates, debentures or other obligations, so purchased may be sold and the proceeds reinvested in similar bonds, notes, bills or certificates, debentures or other obligations, of the United States of America, its agencies, or its instrumentalities, or placed in the county treasury for credit to the fund of the district from which purchased. This section shall not be

construed as in any way limiting or modifying the application of any other law providing for or authorizing the investment of any funds of a community college district. Notwithstanding any other provision of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the interest and sinking fund of the district to meet the principal and interest falling due on such bonds.

84036. The governing board of a community college district which has made an investment pursuant to the authority of Section 84035 may deposit such security for safekeeping with a state or national bank or trust company located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within the state, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System. The governing board shall take from such bank a receipt for the security so deposited. The county treasurer with whom such funds if uninvested would be deposited shall not be responsible for securities delivered to and receipted for by a bank under the authority of this section until they are withdrawn from the bank by said treasurer.

84037. The governing board of any community college district may deposit in one or more bank accounts as clearing accounts any miscellaneous receipts, including receipts from the sale of property or materials pursuant to Section 81457 or 81458, received or collected by the district, and may provide for the withdrawals from such accounts. All moneys in any such bank account shall be paid into the county treasury within the time periods specified pursuant to Section 84001. Cashiers' checks, certified checks, and money placed in the custody of the community college district as security that a bidder will execute or faithfully perform a contract, if awarded to him, may be deposited in any such bank account but shall not be paid into the county treasury to the credit of the district unless forfeited or unless unclaimed by the bidder for a period of 12 months.

Such bank accounts shall not be subject to the deposit of funds under the provisions of Article 2 (commencing with Section 53630), Chapter 4, Part 1, Division 2, Title 5 of the Government Code, except to the extent provided by Section 53679 of the Government Code.

84038. The governing board of any community college district having an average daily attendance of 100,000 or more may deposit in one or more bank accounts moneys received from the temporary rental of property acquired by a district pending construction of school facilities on such property. The moneys may be held in such accounts for a period of not to exceed three years and may be used to pay any proper costs incurred as a result of such temporary rental, provided that when such moneys are not being used to pay such costs they may be invested, along with all other moneys deposited in clearing accounts, pursuant to Section 84035 as determined by the governing board of any community college district.

84039. The governing board of any community college district

which maintains clearing accounts, cafeteria accounts, and other accounts in a bank or banks, pursuant to Section 84037 or 84002, or pursuant to any other provisions of law, may contract and pay for the expenses of transporting money to and from such bank or banks.

84040. Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each community college district shall either provide for an audit of the books and accounts of the district or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a community college district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district.

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

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy. Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the board of governors and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The board of governors shall make any adjustments necessary in future apportionments of state funds, to correct any discrepancies revealed by such audit reports under the provisions of Section 84330.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance may make arrangements for the audit and the cost of such audit shall be paid from district funds or the county school service fund as the case may be.

The Department of Finance with the cooperation of the board of governors shall prescribe the statements and other information to be included in the audit reports filed with the state. The Department of Finance may make such audits, surveys and reports, and may develop suggested procedures for carrying out the purposes of this section, as in the judgment of the department will serve the best

interests of the state.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any community college district.

84041. The governing board of every community college district shall require each employee of the district, whose duty it is to handle funds of the district, and may, in its discretion, require employees of the district, whose duty it is to handle property of the district, to be bonded under a suitable bond indemnifying the district against loss. Such bond may be a name schedule bond, schedule position bond or blanket bond, and shall be in such amount and type as the board shall consider necessary and desirable. The boards shall pay from the funds of the district the cost of the premium necessary to provide the bond.

84042. Except as provided in this section, any election held for the purpose of permitting a community college district to exceed the expenditure of district funds fixed by the Constitution or by the statutes of the state shall be called, held, and conducted as nearly as possible as are elections for the issuance of district bonds.

The notice of election shall contain only the following:

- (a) The time and place or places of holding the election.
- (b) The names of the officers appointed to conduct the election.
- (c) The hours during the day in which the polls will be open.
- (d) The amount by which it is proposed to increase the expenditures of the district during the school year.
- (e) The total amount of proposed expenditures of the district, including the proposed increase, for the school year.

The ballots used at the election shall contain the following language: "Shall the total authorized expenditures of the district be increased from \_\_\_\_\_ (naming the sum) to \_\_\_\_\_ (naming the sum) for the school year \_\_\_\_\_ (naming the school year)?"

The hours during which the polls at the election are open shall be fixed in accordance with the provisions of Section 14206 of the Elections Code.

### Article 3. Foundation Trust Fund

84050. Any community college district which receives bequests or gifts of money which is surplus money not required for the immediate necessities of the district may invest it pursuant to the provisions of this article.

84051. Any gift or bequest of money which is to be invested pursuant to this article shall be placed in a district special fund in the county treasury, to be designated as the foundation trust fund. If the gift or bequest of money is required to be used for specific purposes according to the terms of the gift or bequest, the governing board shall place the money in a separate account in the foundation trust fund, and may by resolution designate the separate account by the name that it shall be known, including in its name the term

“foundation trust account.”

84052. The money deposited in a separate account in the foundation trust fund shall be invested pursuant to this article or expended only for the purposes of the gift or bequest.

84053. The governing board of a community college district which has placed funds in the foundation trust fund is hereby authorized to invest all or any part of such funds as it deems wise and expedient as follows:

(a) In the securities, warrants, or instruments of indebtedness specified by Section 53601 of the Government Code.

(b) In corporate securities other than corporate shares, provided that the amount of investment under this subdivision shall not exceed 50 percent of the amount invested under subdivision (a).

Any security, warrant, or instrument of indebtedness purchased pursuant to this section may be sold and the proceeds reinvested in similar securities, warrants, or instruments, or placed in the foundation trust fund.

84054. The governing board of a community college district may deposit such securities, warrants, or instruments purchased under Section 84053 for safekeeping pursuant to Section 84036.

84055. The governing board of a community college district which places money in the foundation trust fund pursuant to this article shall appoint an advisory committee equal in number to the number of members of the governing board. The committee shall be composed of qualified electors of the district and may include members of the governing board. Members of the committee shall serve without compensation.

84056. The advisory committee shall advise the governing board as to the investments to be made pursuant to this article.

84057. The governing board shall adopt rules and regulations to effectuate the purposes of this article, not inconsistent with law.

84058. Except as may be otherwise provided in this article, other provisions of this chapter shall be applicable to the money placed in the foundation trust fund pursuant to this article.

#### Article 4. Miscellaneous

84070. Whenever the assessed valuation of a community college district is reduced as a result of the operation of Section 992 of the Revenue and Taxation Code, the district shall receive replacement revenue from the state for the loss of revenue to the district.

A community college district shall be eligible for replacement revenue when the assessed valuation exempted as the result of the operation of Section 992 of the Revenue and Taxation Code is 30 percent or more of the district's assessed valuation in the 1970-1971 fiscal year. A district shall be ineligible for replacement revenue when its assessed valuation has increased 250 percent or more over the 1970-1971 fiscal year assessed valuation.

84071. Whenever reference is made to “adults” in this division in

the context of apportionments to community college districts such reference shall be deemed to refer to persons 21 years of age or over notwithstanding any other provision of law.

Whenever reference is made to "minors" in this part in the context of apportionments to community college districts, such reference shall be deemed to refer to persons under 21 years of age notwithstanding Section 25 of the Civil Code or any other provision of law.

## CHAPTER 2. PROPERTY VALUATIONS FOR ALLOCATIONS

84200. On the basis of computations made by the State Board of Equalization, the secretary of that board shall certify on or before October 1st of each year to the Chancellor of the California Community Colleges the factor, carried to three decimal places, by which the total assessed value of all tangible property on the current local roll of each county must be modified to conform to the statewide average assessment level.

84201. Any state department, board, or agency which allocates funds to any community college district on the basis of the assessed valuation of property within the district, or which makes any computation on this basis for school building fund repayment purposes, shall average the factor certified for the current year under Section 84200 for the local roll of the county in which the district is located with the factors so certified for the two immediately preceding years. The department, board, or agency shall then modify that part of the valuation of the district shown on the local roll by application of this three-year-average factor carried to three decimal places. If a district is located in more than one county, this modification shall be made by applying the average factor appropriate for the assessed value of the property upon the local roll of each county within which the district is located.

84202. Notwithstanding any other provision of this code, whenever the assessed valuation of the community college district has been modified upward under Section 84201, measures to provide additional local tax revenues to provide the funds required to offset the decrease in school equalization aid resulting from such modification of the assessed value shall be undertaken pursuant to Section 84203.

84203. Whenever it appears that a community college district's state equalization aid and supplementary support will be less than they would be if no modification of the district's assessed valuation were required under Section 84201, the governing board of the district shall estimate the amount of the difference and shall certify the amount to the county superintendent of schools.

The county superintendent of schools shall certify to the county auditor of the county in which the districts are included the amounts required to offset such decrease of equalization aid, or supplemental support, or both, in all the districts under his jurisdiction. The county

auditor shall certify such amounts to the county board of supervisors who shall, at the time other taxes are levied, levy a tax upon all the assessed valuation of the county sufficient to provide the total of the amounts certified. Upon the collection of such taxes the county auditor shall pay to each community college district the amount certified as required to offset the decrease in equalization aid or supplemental support.

84204. Notwithstanding any provision of this chapter or any other provision of law to the contrary, the certifications required by Section 84203 may be made at any time prior to the time county and district taxes are required to be levied.

Notwithstanding the provisions of Sections 85200 and 85210 or any other provision of this code to the contrary, the governing board of a community college district may budget and use the amounts paid to the community college district collected from any such tax levied pursuant to Section 84203.

84205. If, for any reason, the tax required by Section 84203 to be levied and collected during a fiscal year to offset decreases in state equalization aid and supplemental support is not so levied and collected during the fiscal year, the same shall be levied and collected during the next succeeding fiscal year. The county superintendent of schools and the county auditor shall make the certifications of the amount to be raised by such tax in the manner prescribed by Section 84203, and the board of supervisors shall, in such succeeding fiscal year, at the time other taxes are levied, levy a tax on all the assessed valuation of the county sufficient to provide the total of the amounts certified, and the same shall be paid to the affected school districts as otherwise required by Section 84203.

84206. The Legislature hereby declares that its sole motive in enacting this chapter is to provide a reasonable and equitable method for ascertaining the value of property located within community college districts for use in connection with the administration of state laws providing for the allocation of state funds to such districts for school purposes on the basis of value. The Legislature hereby further declares that in enacting this chapter it has no intention to affect in any way, whether directly or indirectly, any determination of the assessed value of property for tax purposes; and that it has no intention by such enactment to modify any phase or aspect of the process of property taxation in any respect whatsoever, except to the limited extent necessary for tax levy adjustment purposes in accordance with this chapter.

### CHAPTER 3. STATE SCHOOL FUND

#### Article 1. Maintenance, Disbursements and Sources

84300. The amount transferred to Section B of the State School Fund pursuant to subdivision (a) of Section 14020 shall be expended for community college basic aid, equalization aid, and allowances for

adults in programs maintained in conjunction with community colleges, to be apportioned on account of average daily attendance.

84301. The amount transferred to Section B of the State School Fund pursuant to subdivision (b) of Section 14030 shall be expended in accordance with the following schedule:

(a) Two hundred eighty-nine dollars and seventy cents (\$289.70) multiplied by the total average daily attendance credited to community college districts during the preceding fiscal year for basic aid and equalization aid to be apportioned to community college districts on account of average daily attendance.

(b) Five dollars and eighty-five cents (\$5.85) multiplied by total average daily attendance credited to community college districts during the preceding fiscal year for the purposes of Chapter 4 (commencing with Section 78700) and Chapter 5 (commencing with Section 78800) of Part 48 of this division, and Sections 84817 and 84820.

(c) One dollar and seventy-six cents (\$1.76) multiplied by the total average daily attendance credited to community college districts during the preceding fiscal year for the purposes of Chapter 4 (commencing with Section 78600) of Part 48 of this division.

(d) One dollar and seventy-six cents (\$1.76) multiplied by the total average daily attendance credited to community college districts during the preceding fiscal year for the purposes of Article 9 (commencing with Section 84810) of Chapter 5 of this part.

(e) Two dollars and eighty-two cents (\$2.82) multiplied by the average daily attendance during the preceding school year credited to all community college districts for the purpose of Article 11 (commencing with Section 84850) of Chapter 5 of this part.

84302. The chancellor shall report to the Controller, on or before the 25th day of September of each year, the total average daily attendance during the preceding fiscal year credited to all community college and adult schools in the state.

84303. To provide for the operation of newly organized community college districts, moneys in the School District Organization Revolving Fund in the State Treasury shall be utilized for purposes of making loans to newly organized community college districts pursuant to Article 4 (commencing with Section 84340) of this chapter. The School District Organization Revolving Fund shall be comprised of five hundred thousand dollars (\$500,000) appropriated from the County School Service Fund Surplus Account, and an additional amount of one hundred thousand dollars (\$100,000) otherwise transferable from the General Fund to the State School Fund.

Notwithstanding any provision of Section 14002 to the contrary, the amount to be transferred from the General Fund to the State School Fund in the 1967-1968 fiscal year pursuant to subdivision (b) of Section 14002 shall be reduced by one hundred thousand dollars (\$100,000), and such amount shall be paid into the School District Organization Revolving Fund.

## Article 2. Emergency Apportionments

84309. A governing board of a community college district which determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations may request an emergency apportionment through the board of governors subject to the requirements and repayment provisions of this article.

It is not the intent of the Legislature that this section authorize emergency loans to community college districts for the purpose of meeting cash flow requirements pending the receipt of local taxes and other funds.

It is further the intent of the Legislature that no such emergency apportionments occur unless funds have been specifically appropriated therefor by the Legislature.

(Amended by Stats. 1976, Ch. 1011.)

## [ORIGINAL SECTION]

84309. A governing board of a community college district which determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations may request an emergency apportionment through the board of governors subject to the requirements and repayment provisions of Article 2 (commencing with Section 84310) of this chapter

It is not the intent of the Legislature that this section authorize emergency loans to community college districts for the purpose of meeting cash flow requirements pending the receipt of local taxes and other funds.

It is further the intent of the Legislature that no such emergency apportionments occur unless funds have been specifically appropriated therefor by the Legislature.

84310. Before any apportionment is made pursuant to the provisions of Section 84309, the following requirements shall be met:

(a) The community college district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the district a report prepared by an independent auditor approved by the county superintendent of schools on the financial and budgetary conditions of the district, a written management review conducted by a qualified management consultant approved by the county superintendent of schools, and a plan adopted by the governing board to resolve the financial problems of the district.

(b) The county superintendent of schools shall review the independent auditor's report, the management review, and the district plan.

(c) The county superintendent of schools shall submit to the chancellor, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, and the Director of Finance a copy of the reports and plan specified in subdivision (a).

(d) The chancellor shall review the reports submitted to him by the county superintendent of schools and shall certify to the Director of Finance that the action taken to correct the financial problems of the district is realistic and will result in placing the district on a sound financial basis.

(e) The Legislature shall have specifically appropriated sufficient funds to make the apportionment. The act making such appropriation shall contain a schedule of repayments made pursuant to this article.

84311. The governing board of a community college district requesting apportionment shall, in its annual budget for the year succeeding the year in which it requests apportionment, expressly indicate the utilization of the plan to resolve its financial problems. If such plan extends beyond the next succeeding year, then subsequent budgets for years to which the plan is applicable shall similarly indicate such utilization.

84312. No more than 18 months after the disbursement of funds to the community college district, the county superintendent of schools shall make a followup review on the action taken and shall submit a report to the chancellor and the Director of Finance of the results of the action taken to correct the financial problems of the district.

84313. The emergency apportionment shall be repaid to the state over a three-year period, or less, together with interest at a rate equal to the rate established for the most recent sale of state bonds as of the date of the disbursement of funds to the district.

84314. The chancellor shall withhold from the apportionments to be made to the district from Section B of the State School Fund in each year an amount equal to the amount which becomes due in the year.

### Article 3. Duties of the Chancellor

84320. The Chancellor of the California Community Colleges shall on or before July 15th of each year certify to the Controller the amounts estimated to be apportioned to each effective community college district during the current fiscal year on the basis of the report of the districts for the second principal apportionment of the preceding fiscal year, and the amounts estimated by the Chancellor of the California Community Colleges to be apportioned to the county school service fund during the current fiscal year under subdivisions (a) and (b) of Section 23004. This apportionment shall be called the advance apportionment.

84321. If, due to changes in federal legislation, the entitlement under Public Law 874 of the 81st Congress for the 1972-1973 fiscal year has been reduced substantially in a district, the district superintendent may petition the chancellor for an advance of funds from the General Fund during such fiscal year of a part of the first principal apportionment to such district for the 1973-1974 fiscal year, which advance shall not exceed the amount of the computed reduction. There is hereby appropriated from the General Fund sufficient funds as needed to make the advance of funds as authorized pursuant to this section.

If, upon review of a request, the Director of Finance and the chancellor deem it necessary to provide an advance of funds, they shall certify to the Controller the amount of the advance to be allowed, and the Controller shall transfer such amount to the district, to be repaid by reducing the first principal apportionment to be made to the district during the 1973-1974 fiscal year or alternatively, at the option of the district with the approval of the Director of Finance and the chancellor, by the withholding of equal amounts from the first principal apportionments to be made to the district during the 1973-1974, 1974-1975, and 1975-1976 fiscal years. The total amount withheld shall equal the amount of the advance, plus interest, if repayment is not made during the 1973-1974 fiscal year, at a rate to be determined by the Director of Finance.

84322. The chancellor shall on or before February 20th of each year apportion to each community college district, the total amounts allowed to them under Sections 84760, 84770, 84780, 84781, 84817, 84820, 84832, 84834, 84835, 84836, and 84838. This apportionment shall be called the first principal apportionment.

84323. The chancellor shall on or before December 10th of each year apportion:

To each community college district, the total of amounts allowed to them under Sections 84810 to 84816, inclusive.

This apportionment shall be called the special purpose apportionment.

84324. The chancellor shall on or before June 25th of each year apportion to each community college district, the total amounts allowed to them under Sections 84760, 84770, 84780, 84781, 84817, 84820, 84832, 84834, 84835, 84836 and 84838. This apportionment shall be called the second principal apportionment.

84325. The chancellor shall on or before June 25th of each year apportion to each community college district the total of the amounts allowed to the district under Section 84882. This apportionment shall be called the final apportionment.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

84325 The chancellor shall on or before June 25th of each year apportion to each community college district the total of the amounts allowed to the district under Section 41972. This apportionment shall be called the final apportionment.

84326. The chancellor shall apportion at such times as needed the amounts allowed pursuant to Section 14055.

84327. The chancellor shall withhold from the apportionment to a community college district, as a part of the first principal apportionment and second principal apportionment, the amount allowed the district for the average daily attendance in grades 13 and 14 by reason of the operation of Section 84721 of pupils residing in the district who were in attendance at a community college in another district. The amount withheld per unit of average daily attendance shall be determined by dividing the total amount of basic

state aid and state equalization aid computed for the district of residence of such students by the total foundation program average daily attendance of the district.

The chancellor shall add the amount withheld to the apportionment required to be made to the community college district maintaining the community college at which the students were in attendance.

84328. The chancellor shall certify each apportionment made by him under Sections 84322 to 84329, inclusive, whichever are in effect, to the State Controller.

84329. The chancellor shall furnish an abstract of each apportionment of the State School Fund to the State Controller, the Department of Finance and to the county and city and county auditors, county and city and county treasurers, and to the county superintendents of schools of the several counties of the state.

84330. If during any fiscal year there is apportioned to a community college district or to any fund from Section B of the State School Fund at least one hundred dollars (\$100) more or at least one hundred dollars (\$100) less than the amount to which the district or fund was entitled, the chancellor, in accordance with regulations that he is herewith authorized to adopt not later than the third succeeding fiscal year shall withhold from, or add to, the apportionment made during such fiscal year, the amount of such excess or deficiency, as the case may be. Notwithstanding, any other provision of this code to the contrary, excesses withheld or deficiencies added by the chancellor under this section shall be added to or allowed from any portion of Section B of the State School Fund except that portion reserved as allowances for basic state aid.

84331. When any judgment has been rendered which requires the apportionment from Section B of the State School Fund to any district, to any other agency, or to any fund for any fiscal year of more than the amount actually apportioned thereto during such fiscal year, the difference shall be apportioned to the district, agency, or fund by the chancellor from Section B of the State School Fund during the fiscal year following that in which the judgment becomes final before any other apportionment from Section B of the State School Fund is made. Upon the becoming final of any judgment which requires the apportionment from Section B of the State School Fund to any community college district, to any other agency, or to any fund for any fiscal year of less than the amount actually apportioned thereto during any fiscal year, the difference shall be deducted from the apportionment made to such district, agency, or fund by the chancellor from Section B of the State School Fund during the fiscal year following that in which the judgment becomes final.

84332. Wherever the attendance of students is not included in the computation of the average daily attendance of a community college district for any fiscal year because the certification document of the person employed by the district to instruct such students was not in

force during the period of such attendance, the governing board of the district may, upon payment of the salary of such person pursuant to Section 87810, or similar provisions of law, report such attendance to the chancellor during the fiscal year in which such salary is paid. Such report shall be made in such form as shall be prescribed and furnished by the chancellor. Thereafter the chancellor shall add to the apportionment from the State School Fund to the district during the next succeeding fiscal year or years, as determined by him but not exceeding three, the additional amount to which the district would have been entitled in the fiscal year next succeeding that in which such attendance was not included in the computation of the average daily attendance of the district if such amount is at least one hundred dollars (\$100) or more.

Any such additional amount shall be apportioned from the State School Fund before any other apportionment from such fund is made and shall be allowed from any portion of such fund except that portion reserved as allowances for basic state aid.

84333. The Board of Governors of the California Community Colleges shall allow to each community college district for the education of severely mentally retarded students in special classes during the current fiscal year an amount computed as follows:

(a) It shall divide the average daily attendance in each particular class-size category by the maximum class size established for each particular class-size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) It shall then determine for each particular class-size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) It shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

	Community college grades (13-14)
Category	
Mentally retarded (as defined in Section 6903)	
Class-size maximum of 12 .....	\$630

Article 4. Loans and Advances to New Districts

84340. Loans may be made by the Chancellor of the California Community Colleges from the Community College District Organization Revolving Fund at any time during the period from the date the action to form the district was completed and the date the district becomes effective for all purposes, or during the first three years of the existence of any newly formed community college district in amounts necessary to enable the district to meet the current expenses of operation. A loan may be made upon approval,

by the chancellor, of an application therefor submitted by the governing board of a newly formed community college district. A loan may be made only if the chancellor determines that the applicant newly formed community college district is in need of funds to meet the current expenses of operation, and that the general purpose tax rate of the district for the fiscal year in which the application is submitted is at least equal to the average of such rates applicable at that time in other districts maintaining community colleges in the same county or in adjacent counties.

For purposes of this section the chancellor may prescribe the form in which applications are to be submitted, and may require the submission of such information and data by the applicant district as he may deem necessary to make any required determinations.

During each of the five fiscal years immediately succeeding the fiscal year in which a loan is made under this section, the State Controller shall deduct from apportionments made from Section B of the State School Fund to the newly formed community college district an amount equal to one-fifth of the amount loaned to the district, and pay the same amount into the Community College District Organization Revolving Fund.

84341. Upon approval of the Board of Governors of the California Community Colleges, an advance of apportionments from Section B of the State School Fund may be made to any community college district applying therefor for the purpose of meeting the cost of developing preliminary plans for the construction of community college facilities in the district.

The board of governors may approve an advance in apportionments to a district when it has first been shown to the satisfaction of the board that: (a) the district has no uncommitted funds available to meet the cost of developing preliminary plans; and (b) the inability to develop preliminary plans will delay the placing of an application for state support for construction, and the ultimate completion of the community college facility.

The Controller shall withhold from apportionments from Section B of the State School Fund to the district receiving an advance apportionment, one-third of the amount advanced, in each of the three subsequent fiscal years, plus interest as determined by the Director of Finance.

## Article 5. Use of Apportionments

84360. The governing board of each community college district shall, except as may otherwise be specifically provided by law, use all money apportioned to the district from the State School Fund during any fiscal year exclusively for the support of the school or schools of the district for that year.

84361. If at the end of any fiscal year during which the schools of a community college district have been maintained for the period required or permitted by law, there is standing to the credit of the

district an unexpended balance of money received from the State School Fund, it may be expended for the payment of claims against the district outstanding, or it may be expended during the succeeding fiscal year.

84362. For purposes of this section:

(a) "Salaries of classroom instructors" and "instructors" shall have the same meanings as prescribed by Section 84031 provided, however, that the cost of all health and welfare benefits provided to the instructors by the community college district shall be included within the meaning of salaries of classroom instructors.

(b) "Current expense of education" means expenditures for certificated salaries other than certificated salaries for student transportation, food services, and community services; classified salaries other than classified salaries for student transportation, food services, and community services; employee benefits other than employee benefits for student transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for student transportation and food services; and community services, contracted services, and other operating expenses other than for student transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the Accounting Manual for California Community Colleges) or expenditures for facility acquisition and construction.

There shall be expended during each fiscal year for payment of salaries of classroom instructors by a community college district, fifty percent (50%) of the district's current expense of education.

If the board of governors determines that a district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom instructors during the preceding fiscal year, the board shall, in apportionments made to the district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the board of governors shall be deposited in the county treasury to the credit of the community college district, but shall be unavailable for expenditure by the district pending the determination to be made by the board of governors on any application for exemption which may be submitted to the board of governors. In the event it appears to the governing board of a community college district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom instructors in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions, the governing board may, with the written

approval of the county superintendent of schools having jurisdiction over the district apply to the board of governors in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the board of governors shall grant the district exemption for any amount that is less than one thousand dollars (\$1,000), and if the amount is one thousand dollars (\$1,000), or greater may grant the district exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application is made. If such exemption is granted, the designated moneys shall be immediately available for expenditure by the community college district governing board. If no application for exemption is made or exemption is denied, the board of governors shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom instructors during the next fiscal year.

The board of governors shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. It may require the submission during the school year, by community college district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

84362 For purposes of this section:

(a) "Salaries of classroom instructors" and "instructors" shall have the same meanings as prescribed by Section 84031 provided, however, that the cost of all health and welfare benefits provided to the instructors by the community college district shall be included within the meaning of salaries of classroom instructors.

(b) "Current expense of education" means expenditures for certificated salaries other than certificated salaries for student transportation, food services, and community services, classified salaries other than classified salaries for student transportation, food services, and community services, employee benefits other than employee benefits for student transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for student transportation and food services; and community services, contracted services, and other operating expenses other than for student transportation, food services, and community services "Current expense of education," for purposes of this section shall not include expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual) or expenditures for facility acquisition and construction.

There shall be expended during each fiscal year for payment of salaries of classroom instructors by a community college district, fifty percent (50%) of the district's current expense of education.

If the board of governors determines that a district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom instructors during the preceding fiscal year, the board shall, in apportionments made to the district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the board of governors shall be deposited in the county treasury to the credit of the community college district, but shall be unavailable for expenditure by the district pending the determination to be made by the board of governors on any application for exemption

which may be submitted to the board of governors. In the event it appears to the governing board of a community college district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom instructors in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions, the governing board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the board of governors in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the board of governors shall grant the district exemption for any amount that is less than one thousand dollars (\$1,000), and if the amount is one thousand dollars (\$1,000), or greater may grant the district exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application is made. If such exemption is granted the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the board of governors shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom instructors during the next fiscal year.

The board of governors shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. It may require the submission during the school year, by community college district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

84363. The board of governors shall, no later than the 10th calendar day of each year of the Legislature, submit to the Legislature a written report on the operation, effect, and the extent of compliance with the provisions of Section 84362 by community college districts in the state during the two most recently ended fiscal years. The report shall describe the activities of the board of governors, and the chancellor's office, undertaken to insure compliance with the provisions of Section 84362, and may contain recommendations for legislation pertaining to that subject.

#### Article 6. Disqualifying Districts for Apportionments

84370. No community college district, other than one newly formed, shall, except as otherwise provided in this article, receive any apportionment from the State School Fund unless it has maintained the regular day schools of the district for at least 175 days during the next preceding fiscal year.

For the purposes of this article, the Board of Governors of the California Community Colleges shall establish standards to determine whether the districts within its jurisdiction have maintained the regular day schools of the district for at least 175 days during the next preceding fiscal year.

84371. A community college district is a newly formed district up to the close of the fiscal year in which its formation became effective for all purposes.

84372. A community college district which is prevented from maintaining its schools during a fiscal year for at least 175 days because of fire, flood, or epidemic, or because of any order of any

military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue such order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold an instructor, or because of the illness of the instructor, which fact shall be shown to the satisfaction of the board of governors by the affidavits of the members of the governing board of the community college district and of the county superintendent of schools, shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 days.

84373. No community college district shall receive any apportionment from the State School Fund on account of any community college which has failed for three consecutive years to comply with the standards prescribed by the board of governors for accredited community colleges.

84374. When a community college district is formed to include all of the territory of a high school district or a unified district, no apportionment of funds from the State School Fund shall be made to the high school district or the unified district on account of students attending community college in such district during the school year in which the new community college district becomes effective for all purposes or thereafter.

#### CHAPTER 4. AVERAGE DAILY ATTENDANCE

##### Article 1. General Provisions

84500. (a) For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in approved coordinated instruction systems programs of instruction using television, computer-assisted instruction, automated audiovisual systems, programmed learning materials, and other similar teaching techniques, under the coordination and evaluation of an employee who possessed an appropriate certification document, but not requiring the immediate supervision of such employee. Approved coordinated instruction systems programs of instruction are those recommended by the governing board of the district maintaining the community college and approved by the Board of Governors of the California Community Colleges. One student contact hour is to be counted for each unit of coordinated instruction systems credit in which a student is enrolled during any census period. The state aid apportionment made by the board of governors shall not be greater than one-half the current costs of conducting approved coordinated instruction systems programs of instruction. Coordinated instruction systems programs of instruction shall be conducted by employees of the district who possess valid credentials or certification documents,

who shall determine the need for immediate supervision of the programs of instruction. Such employees shall evaluate individual student progress and assign appropriate grades for students enrolled in classes taught by the coordinated instruction systems programs of instruction.

(b) For the purpose of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator. A pupil enrolled in such work experience program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 76313.

(c) For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations that conform to all apportionment attendance and course of study requirements otherwise imposed by law; provided that such courses are fully open to the enrollment and participation of the public pursuant to subdivision (2) of Section 78450; and provided further, that prerequisites for such courses shall not be established or construed so as to prevent academically qualified persons not employed by agencies in the criminal justice system from enrolling in and attending such courses.

(d) In the event that certain in-service training courses are restricted to employees of police, fire, corrections, and other criminal justice agencies, attendance for such restricted courses shall not be reported for purposes either of state apportionments or district revenue limits computed pursuant to Sections 85132 and 85140. Notwithstanding the provisions of Section 78450, a community college district which restricts enrollment in such in-service training courses may contract with any public agency to provide compensation for the cost of conducting such courses.

(e) Positive records of student admissions and daily attendance in all in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations, as described in subdivision (c), shall be maintained by each district and shall be separately reported annually to the chancellor's office of the California Community Colleges.

84501. Whenever it is necessary to compute the average daily attendance of a community college of a district for any certain

purpose and no provision is made for the computation thereof for such purpose, the average daily attendance of the school shall be computed by dividing the total number of days of student attendance allowed by the number of days school was actually taught in the regular day schools of the district, exclusive of Saturdays or Sundays.

(Added by Stats. 1976, Ch. 1011.)

84502. (a) If any computation of average daily attendance made under, or necessitated by, any provision of law results in a fraction of less than one-half of a unit, the average daily attendance shall be taken as the next lowest whole number, except that if such computation results in an average daily attendance of less than one unit, the average daily attendance shall be deemed to be one unit; but if the fraction is one-half or more of a unit, the average daily attendance shall be taken as the next highest whole number.

(b) Whenever any reference is made to a specific whole number of units of average daily attendance said number shall include any fraction above said number which is less than one-half of a unit, and any fraction of one-half or more of a unit above the next lowest whole number.

84503. Notwithstanding anything in this code to the contrary when as a result of the reorganization of community college districts, or the change of community college district boundaries, and if the board of governors determines that a community college district in which students reside does not have suitable quarters in which to maintain college for all the day students of the district, or that for other good and sufficient reasons the education of students in the district in which they reside is not practical or in the best interests of such students, the governing board of the district of residence shall contract with the governing board of another community college district for the education of those for whom suitable quarters are not available, or who should be educated in another district, as determined by the board of governors. No contract for the education of students under this paragraph shall be authorized subsequent to the close of the third fiscal year following that in which the district of residence is formed or reorganized, or the boundaries of the district changed, for all purposes.

Such contract shall provide for the payment of tuition in such amount and in the manner as may be agreed upon by the governing board of the district of attendance and the governing board of the district of residence. The tuition agreed upon shall not be an amount in excess of the actual cost to the district of attendance for the education of such students, less federal funds apportioned or allocated to the district of attendance on account of such students, and shall be payable during the current college year of attendance.

Any contract for the education of students residing in a community college district made by the governing board of the district in accordance with the provisions of this section shall be deemed for all

purposes to be or have been the maintenance of a college within the boundaries of the district. The average daily attendance of all students attending college in a district other than the district in which they reside, pursuant to such contract, shall be credited to the district of residence for apportionment purposes.

The provisions of this section shall apply to any contract made by governing boards of community college districts pursuant to this section during the fiscal year 1953-54, and thereafter, and attendance of students under such a contract shall be credited in the manner prescribed by this section.

(Amended by Stats 1976, Ch. 1011.)

[ORIGINAL SECTION]

84503. Notwithstanding anything in this code to the contrary when as a result of the reorganization of community college districts, or the change of community college district boundaries, and if the board of governors determines that a community college district in which students reside does not have suitable quarters in which to maintain school for all the day students of the district, or that for other good and sufficient reasons the education of students in the district in which they reside is not practical or in the best interests of such students, the governing board of the district of residence shall contract with the governing board of another community college district for the education of those for whom suitable quarters are not available, or who should be educated in another district, as determined by the board of governors. No contract for the education of students under this paragraph shall be authorized subsequent to the close of the third fiscal year following that in which the district of residence is formed or reorganized, or the boundaries of the district changed, for all purposes.

Such contract shall provide for the payment of tuition in such amount and in the manner as may be agreed upon by the governing board of the district of attendance and the governing board of the district of residence. The tuition agreed upon shall not be an amount in excess of the actual cost to the district of attendance for the education of such students, less federal funds apportioned or allocated to the district of attendance on account of such students, and shall be payable during the current school year of attendance.

Any contract for the education of students residing in a community college district made by the governing board of the district in accordance with the provisions of this section shall be deemed for all purposes to be or have been the maintenance of a school within the boundaries of the district. The average daily attendance of all students attending school in a district other than the district in which they reside, pursuant to such contract, shall be credited to the district of residence for apportionment purposes.

The provisions of this section shall apply to any contract made by governing boards of community college districts pursuant to this section during the fiscal year 1953-54, and thereafter, and attendance of students under such a contract shall be credited in the manner prescribed by this section.

84504. Notwithstanding any other provision of law, the average daily attendance of students enrolled in summer schools shall be credited to the community college district in the fiscal year in which the last day of the summer school falls.

## Article 2. Computation

84520. The units of average daily attendance for apportionment purposes of regularly enrolled students of a community college district in 13th- and 14th-grade courses during the academic year, as

defined in Section 71027, exclusive of adults as defined in Section 78460, shall be computed by multiplying the weekly student contact hours of enrollment as recorded for the census day of the fourth week of five or six consecutive schooldays each semester or quarter by statewide factors heretofore established by the board of governors, subject to review by the Department of Finance. The census day shall be Monday of the fourth week of regularly scheduled classes in the semester or quarter.

Such factors shall be reviewed from time to time by the board of governors, subject to review by the Department of Finance.

Attendance of such students enrolled in classes conducted in summer sessions, as distinct from summer quarters, of four weeks or more shall be counted in the computation of average daily attendance for apportionment purposes under the provisions of this section using the following formula: Multiply the sum of the weekly student contact hours of enrollment in each class during the census week of each class of the summer session by the number of scheduled weeks for each class, multiply the product so derived by the statewide factors established by the board of governors, subject to review by the Department of Finance, and divide by 525. The census day shall be Monday of the second week. For classes of less than four weeks, the units of average daily attendance shall be computed by dividing the total actual class hours of attendance by 525.

84521. For the purposes of this section a short-term class, exclusive of Sections 84500 and 84530, is any class scheduled for less than a full quarter, semester, or other sessions as approved by the Chancellor of the California Community Colleges to meet the requirements of Section 84370.

Notwithstanding Section 84520, units of average daily attendance of students, including adults as defined in Section 78460, enrolled in credit and noncredit short-term classes qualifying for a state apportionment in the 1974-75, 1975-76, 1976-77, and 1977-78 school years shall be computed by dividing actual class hours of attendance by 525. The attendance of adults as defined in Section 78460 shall be kept separately from all other attendance.

This section shall remain in effect only until July 1, 1978, and is repealed as of that date.

84522. The board of governors shall, with the approval of the Department of Finance, determine two census weeks for each term of the regular academic year, and a single census week for summer sessions.

The board of governors, after appropriate study, shall develop a drop date for reporting students in active attendance which shall be no later than the day prior to the beginning of the second census week in regular academic terms; and such census weeks shall be used for all apportionment purposes for the fiscal year beginning July 1, 1975, and subsequent fiscal years.

In its study, the board of governors shall consider the needs of students, most particularly those who are unable to complete a term

due to illness or other extenuating circumstances, while at the same time making the drop date meaningful to the measurement of average daily attendance.

In implementing the intent of this section, the board of governors shall insure that local governing boards maintain sufficient administrative flexibility to provide adequately for the academic needs of students.

The board of governors, in cooperation with the Department of Finance, shall develop factors reflecting the relationship of actual attendance to contact hours of enrollment for the census week or weeks. The board of governors, during the 1973-74 and 1974-75 fiscal years, shall collect data necessary to the establishment of such census week or weeks and drop date.

Beginning with the fiscal year 1975-76, the new census week or weeks and factors shall be used for all computations of state apportionment in lieu of those prescribed in Section 84520. In the event it is determined by the board of governors and the Department of Finance that this new procedure cannot be wholly implemented in the 1975-76 fiscal year, provision shall be made by joint determination for a phase-in period of no longer than three years.

The chancellor's office shall study and test the validity of such factors in the 1976-77 fiscal year, and periodically thereafter, and the board of governors may make such adjustments as are necessary and as are agreed to by the Department of Finance.

84523. For the experimental 4-1-4 academic calendar year program operated in the Cabrillo Community College District, the units of average daily attendance for graded classes shall be based upon active enrollment on regular census dates as provided for in Section 84525 occurring during the two 16-week terms with application of the usual factors and procedures prescribed in Section 84520. No state apportionment shall be calculated for enrollment or attendance during the one-month intersession in the Cabrillo Community College District. In the event the 4-1-4 academic year does not comply with the requirement of 175 days instruction for an academic year as prescribed by Section 84370, such requirement may be waived during the experimental period, provided that the governing board of the Cabrillo Community College District and the Board of Governors of the California Community Colleges cooperate in determining how the district can comply with Section 84370. These exceptions to the computation of units of average daily attendance shall apply only to the Cabrillo Community College District for the 1974-75, 1975-76, 1976-77, and 1977-78 fiscal years.

This section shall only be operative until July 1, 1978, and as of such date is repealed.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

84523 For the experimental 4-1-4 academic calendar year program operated in the Cabrillo Community College District, the units of average daily attendance for graded classes shall be based upon active enrollment on regular census dates as provided for in Section 84525 occurring during the two 16-week terms with application of the usual factors and procedures prescribed in Section 84520. No state apportionment shall be calculated for enrollment or attendance during the one-month intercession in the Cabrillo Community College District. The computation of average daily attendance for the summer sessions at Cabrillo Community College District shall be in accordance with Section \_\_\_\_\_. In the event the 4-1-4 academic year does not comply with the requirement of 175 days instruction for an academic year as prescribed by Section 84370, such requirement may be waived during the experimental period, provided that the governing board of the Cabrillo Community College District and the Board of Governors of the California Community Colleges cooperate in determining how the district can comply with Section 84370. These exceptions to the computation of units of average daily attendance shall apply only to the Cabrillo Community College District for the 1974-75, 1975-76, 1976-77, and 1977-78 fiscal years.

This section shall only be operative until July 1, 1978, and as of such date is repealed

84524. The attendance of adults as defined in Section 78460 shall be kept separately from all other attendance. The units of average daily attendance of defined adults resident of the community college district enrolled in regular 13th- and 14th-grade courses during the academic year and in summer session shall be computed in the manner prescribed in Section 84520 except that the factor prescribed therein shall be adjusted as required to reflect the attendance of resident adults. The attendance of such resident adults in summer schools and classes for adults shall be computed in the manner prescribed in Sections 84520 and 84525, respectively.

84525. The Department of Finance, in cooperation with the board of governors, shall determine the census day or days and establish the factor or factors representing the relationship between class or contact hours and average daily attendance of students in classes for adults. The average daily attendance shall be computed by multiplying the applicable factor or factors by the sum of the applicable class or contact hours per week for which students are regularly enrolled, multiplying the product so derived by the number of weeks scheduled for the class in the term, and dividing the resulting product by 525.

Any factor or factors established for such purposes shall be reviewed from time to time by the Department of Finance in cooperation with the board of governors.

84526. The attendance of all students not residents of a community college district, including adults as defined by Section 78460, enrolled in regular 13th- and 14th-grade courses during the

academic year shall be kept separately from all other attendance and the units of average daily attendance for such students and adults shall be computed on an individual basis in the manner prescribed in Section 84520 except that for adults the factor shall be adjusted as required in Section 84524.

The units of average daily attendance of students and adults not residents of the community college district enrolled in summer schools and classes for adults shall be kept separately from all other attendance and be computed on an individual basis in the manner prescribed in Section 84520 and Section 84525, as appropriate.

84527. For purposes of this article, the class hour unit for graded and ungraded classes is defined as not less than 50 consecutive minutes exclusive of passing time. In block scheduling of more than one class hour only one contact hour may be counted in each clock hour of 60 minutes, except that a fractional part of a class hour beyond the last full clock hour may be counted from and including the 51st minute of the last full clock hour, providing there is no class break in the last full clock hour or the partial class hour. The divisor for this fractional part of a class hour shall be 50.

The chancellor's office of the California community colleges may, by rule and regulation, make any and all other provisions necessary to carry out the provisions of this article.

84528. The total units of average daily attendance in the community colleges of a district shall be the total of units of average daily attendance computed under Sections 84520, 84524, 84526, and 84530.

84529. If 50 percent or more of the enrollment in a police or fire training course at a community college consists of students who are residents of community college districts other than the district offering the course, all such students enrolled shall be deemed to be resident students of the district for such courses for the purposes of this article.

84530. For the purposes of computing average daily attendance of community college students in cooperative education or work experience education programs, the following provisions shall apply:

(a) One student contact hour is to be counted for each unit of cooperative education or work experience credit in which a student is enrolled during any census period. In no case shall duplicate student contact hours be counted for classroom study and cooperative education or work experience. The maximum contact hours counted for a student shall not exceed the maximum number of cooperative education or work experience units for which the student may be granted credit under the rules and regulations of the chancellor's office of the California community colleges.

(b) "Immediate supervision" of off-campus work stations shall be defined as student participation in on-the-job training as outlined under a training agreement, coordinated by the community college district under a state-approved plan, wherein the employer and the certificated community college coordinator share responsibility for

on-the-job supervision.

84531. Students under the jurisdiction of the Department of the Youth Authority attending a regular community college attendance center shall be deemed district residents, as defined in Section 68019, for purposes of computing units of average daily attendance under Section 84520.

84532. Upon approval of the board of governors, the governing board of any community college may utilize a system of attendance accounting and reporting on a districtwide basis.

84533. The attendance of a community college student shall be recorded and reported separately if both that portion of the district of which he is a resident and that portion of the district in which he attends a community college are part of a single vocational area formed pursuant to the provisions of Article 2 (commencing with Section 8020) of Chapter 1 of Part 6 of Division 1 of Title 1, if both such districts have approved a master plan for that vocational area, and if the following conditions are satisfied:

(a) The student is enrolled in a vocational program in the community college which he attends which is not offered by a community college maintained by the community college district of which he is a resident, and all the community college districts which are a part of the applicable vocational area have agreed that the provisions of this section shall be applicable in that vocational area, or

(b) The student is enrolled in a vocational program in the community college which he attends, which program is offered, but is not available to him, in a community college maintained by the community college district of which he is a resident; and the district of which he is a resident and the district in which he is attending a community college have agreed that the provisions of this section shall be applicable.

### Article 3. Adult Education

84550. The units of average daily attendance in classes for adults for a fiscal year maintained by a community college district shall be computed as set forth in Section 84525.

### Article 4. Mentally Retarded Students

84560. Mentally retarded students who come within the provisions of Section 78801 and who are enrolled in a work-study program approved by the board of governors shall be credited, for apportionment purposes, one full day of attendance for each day of attendance in the approved program. The average daily attendance of mentally retarded students enrolled in approved programs shall be computed by dividing the total number of days of attendance of the students by the number of days taught in the regular schools of the district. No such students shall be credited with more than five

days of attendance per calendar week or more than the number of calendar days such special school or class is maintained by the district in each fiscal year.

#### Article 5. Emergency Average Daily Attendance

84570. Where a community college in a district maintaining more than one community college is closed for a part of a term by order of a city or county board of health or of the State Board of Health, or because of fire, flood, impassable roads, epidemic, or other emergency, or by an order provided for in Section 84372, the average daily attendance of the community college shall be estimated separately, as provided in Section 84572, and added to the average daily attendance of the other community colleges of the district.

84571. Whenever any attendance records of any district have been lost or destroyed, making it impossible for an accurate report on average daily attendance for the district for any fiscal year to be rendered, which fact shall be shown to the satisfaction of the board of governors by the affidavits of the members of the governing board of the district and the county superintendent of schools, the board of governors shall estimate the average daily attendance of such district. The estimated average daily attendance shall be deemed to be the actual average daily attendance for that fiscal year for the making of apportionments to the district from the State School Fund.

84572. Whenever the average daily attendance of any community college district during any fiscal year has been materially decreased during any fiscal year because of:

- (a) Fire,
- (b) Flood,
- (c) Impassable roads,
- (d) An epidemic,
- (e) The imminence of a major safety hazard as determined by the local law enforcement agency,
- (f) A strike involving transportation services to students provided by a nonschool entity, or
- (g) An order provided for in Section 84372; such fact shall be established to the satisfaction of the board of governors by affidavits of the members of the governing board of the community college district and the county superintendent of schools. The average daily attendance of the districts or the fiscal year shall be estimated by the board of governors in such manner as to credit to the community college district for determining the apportionments to be made to the district from the State School Fund approximately the total average daily attendance which would have been credited to the community college district had the emergency not occurred or had the order not been issued.

The provisions of this section shall apply to any average daily attendance which occurs during any part of a school year.

CHAPTER 5. COMPUTATIONS OF ALLOWANCES AND  
APPORTIONMENTS FROM SECTION B OF THE  
STATE SCHOOL FUND

Article 1. General Provisions

84700. For the purposes of computing allowances and apportionments from Section B of the State School Fund for the advance apportionment, first principal apportionment, and second principal apportionment on the basis of average daily attendance each community college district shall be deemed to comprise the 13th and 14th grades maintained by the district.

84701. For the purposes of this chapter, the governing board of each community college district shall report to the Chancellor of the California Community Colleges during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. If the average daily attendance in the regular day schools of a district for the period of time between July 1 and June 30 is greater or lesser than the average daily attendance in the regular day schools reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the district of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 84330.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Chancellor of the California Community Colleges and average daily attendance shall be computed in the following manner:

(a) If the average daily attendance in schools and classes maintained by community college districts other than regular day schools and classes for the period of time between July 1 and June 30 is greater or lesser than the average daily attendance in such schools and classes reported for the second period report, the separate state support which is provided for attendance in such schools and classes shall be recomputed on the basis of the fiscal year average daily attendance, and increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 84330.

(b) The average daily attendance in grades 13 and 14 of the regular day schools of each community college shall be determined pursuant to the provisions of Article 2 (commencing with Section

84520) of Chapter 4 of this part. For community colleges under the provisions of this paragraph, the "first period" shall be the summer session and the fall semester for semester system colleges, the summer and fall quarter for colleges on the three-quarter system, and the summer and fall quarters for colleges on the four-quarter system. The "second period" shall be the "academic year" which is the summer session plus the first and second semester for semester system colleges, the summer session plus the first and second quarters for three-quarter-system colleges, and the summer, fall, and winter quarters for four-quarter-system colleges.

The "academic year" for three- or four-quarter-system colleges is reported on the annual report and adjustments shall be made as set forth in the first paragraph of this section.

(c) The average daily attendance in summer school and outdoor science and conservation education classes maintained during the period between the last day the regular day schools are in session during the preceding year and the first day the regular day schools are in session during the current year shall be reported on both the first period and second period reports. The hours of attendance shall be divided by 525 for all classes of less than four weeks duration. For summer sessions of four weeks or more, average daily attendance shall be computed as provided in Section 84520.

(d) The days of attendance in classes for adults maintained after the last full school month of the second period of the preceding year and prior to the end of each reporting period shall be reported on each report. To compute the average daily attendance in community colleges, the divisor for contact hours of adult classes is 300 for the first period and 525 for the second period.

84702. The governing board of a community college district affected by fluctuations in enrollments and attendance levels to a degree which will, in all likelihood, result in an actual total of average daily attendance for the fiscal year in excess of that shown in the second period report for the second principal apportionment provided for in Section 84701, may, with the approval of the Chancellor of the California Community Colleges, submit, in lieu of such second period report, a report of the estimated total average daily attendance for the fiscal year. The report shall be in the form prescribed by the Chancellor of the California Community Colleges, and shall be utilized for purposes of the second principal apportionment. If the average daily attendance in the regular day schools of a district for the period of time between July 1 and June 30 exceeds the estimated total average daily attendance reported under this section, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be brought forward to the corresponding categories of the second period report for the next succeeding fiscal year. In the event the estimated total average daily attendance reported under this section exceeds the actual average daily attendance for the fiscal year, the Chancellor of the California

Community Colleges shall withhold, pursuant to Section 84330, from apportionments made during the succeeding fiscal year, the amount of the excess moneys which may have been apportioned as a result thereof.

84703. The amounts computed as allowable to any community college district for state equalization aid shall be reduced by fifty percent (50%) of miscellaneous funds, as defined in Section 84704. In no event shall the reduction exceed the total amount allowable as equalization aid to the district for the fiscal year.

Should the amount of miscellaneous funds, as defined in Section 84704, actually received by a community college district for any fiscal year be more or less than that reported to the Chancellor of the California Community Colleges, the Chancellor of the California Community Colleges shall during the fiscal year next succeeding withhold from or add to the apportionment made to the district from the State School Fund the amount of the excess or deficiency in the apportionment of state equalization aid from the State School Fund for the preceding year, if the amount of the excess or deficiency in such apportionment was one hundred dollars (\$100) or more.

84704. "Miscellaneous funds" as used in Section 84703 means the amount the county superintendent of schools has determined and reported to the Chancellor of the California Community Colleges in accordance with regulations the Chancellor of the California Community Colleges is hereby authorized to adopt that the district has received and which has been deposited to the credit of the general fund of the district for a fiscal year on account of in-lieu taxes or income from bonuses, royalties, rentals or any other income from district property or property within the district or state not being assessed for tax purposes and not being used for school purposes. Federal forest reserve funds received by a district shall not be considered miscellaneous funds as defined by this section.

84705. If any computation made under, or necessitated by, Sections 84500 to 84504, inclusive, Sections 84320 to 84332, inclusive, and Sections 84700 to 84874, inclusive, results in an amount which is:

(a) Less than one dollar (\$1), the amount shall be counted as one dollar (\$1).

(b) More than one dollar (\$1) and includes a fraction of one-half dollar (\$0.50) or more, the fraction shall be counted as one dollar (\$1).

(c) More than one dollar (\$1) and includes a fraction of less than one-half dollar (\$0.50), the fraction shall not be counted.

84706. For the purposes of computation of allowances and apportionments from the State School Fund, whenever computations of apportionments based on average daily attendance are made for community college districts only the attendance in all classes of grades 13 and 14 and all types of ungraded classes, including classes for adults, which have been reported as attached to, or as a part of, a community college which maintains grades 13 and 14 shall be included.

84707. No real or personal property, including money, accepted pursuant to Section 72303 by the governing board of a community college district shall be considered in determining the eligibility of the district for an apportionment from the State School Fund nor in determining the amount thereof.

## Article 2. Computation of Foundation Program

84720. The Chancellor of the California Community Colleges shall compute for each community college district the appropriate amount of a foundation program of school support therefor, in the manner prescribed by this article, using the dollar amounts contained in the various sections of this article which apply.

84721. (a) Except for a community college district which qualifies under subdivision (b), for each community college district, the chancellor shall multiply the number of units of average daily attendance, during the fiscal year, in grades 13 and 14 computed for the district under Sections 84520 and 84550, subject to the provisions of Section 17611, by one thousand twenty dollars (\$1,020) for the 1973-74 fiscal year, by one thousand eighty dollars (\$1,080) for the 1974-75 fiscal year, by one thousand one hundred forty-three dollars (\$1,143) for the 1975-76 fiscal year, by one thousand two hundred nine dollars (\$1,209) for the 1976-77 fiscal year, and by an amount cumulatively increased by sixty-six dollars (\$66) for each succeeding fiscal year thereafter, unless revised by the Legislature prior to July 1, 1977.

(b) For each community college district which has an average daily attendance of less than 1,001 and qualifies as a necessary small community college district as defined in Section 84722, the Chancellor of the California Community Colleges shall make one of the following computations selected with regard only to the number of certificated employees employed or average daily attendance, whichever provides the lesser amount.

Average daily attendance	Minimum number of full-time certificated employees	Amount to be computed in each fiscal year			
		1973-74	1974-75	1975-76	1976-77
1 - 150 .....	12	\$274,000	\$290,000	\$307,000	\$325,000
151 - 200 .....	15	357,000	378,000	400,000	423,000
201 - 300 .....	18	440,000	466,000	493,000	522,000
301 - 400 .....	21	523,000	554,000	586,000	620,000
401 - 500 .....	24	606,000	642,000	679,000	718,000
501 - 600 .....	27	689,000	730,000	772,000	817,000
601 - 700 .....	30	771,000	816,000	864,000	914,000
701 - 800 .....	33	854,000	904,000	957,000	1,012,000
801 - 900 .....	36	937,000	992,000	1,050,000	1,111,000
901 - 1,000 .....	39	1,020,000	1,080,000	1,143,000	1,209,000

(c) For purposes of this section and Section 84760, the average daily attendance of a community college district shall, subject to the provisions of Section 84706, be computed in the manner prescribed by Sections 84520 and 84550, except that there shall be excluded from the computation the attendance of all students deemed "nonresident" as defined in Section 68018.

The Chancellor of the California Community Colleges shall exclude from the computation provided by this section the average daily attendance during the fiscal year of adults, as adults are defined in Section 5756, and of inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp, or farm for adults.

(d) For fiscal year 1977-78 and subsequent years, he shall make adjustments in the foundation program amounts pursuant to subdivision (b) proportionate to the foundation program determined pursuant to subdivision (a).

84722. For the purposes of Section 84721, a necessary small community college district is a community college district with an average daily attendance of less than 1,001 during the fiscal year, and which comes within the following conditions:

(a) The projection of the average daily attendance, as used and defined in Section 84721, for the district for the next three immediately succeeding fiscal years shall not exceed 1,001.

(b) Any one of the following conditions applies:

(1) One campus of the community college district is more than 30 miles by a well-traveled road from the nearest other public community college; and either 90 percent of the students, exclusive of adults as defined in Section 78460, would be required to travel 20 miles, or 25 percent of the students, exclusive of adults as defined in Section 78460, would be required to travel 30 miles one way from a point on a well-traveled road to the nearest other public community college.

(2) The conditions under paragraph (1) of this subdivision do not apply, but on annual application of the district the board of governors has determined for the fiscal year that the district is located in an area sufficiently remote so as to necessitate local current expenditures significantly higher than statewide average current expenditures for community colleges.

84723. (a) Except as provided in subdivision (b), each computation required by this article (commencing at Section 84720) for community college districts shall be made after excluding from the average daily attendance for the fiscal year the average daily attendance of adults, as adults are defined in Section 78460, and the average daily attendance in classes for inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults during the fiscal year.

(b) The attendance of an inmate, except an adult as defined in Section 78460, attending a community college class or program pursuant to Section 2690 of the Penal Code shall not be excluded

pursuant to this section.

84724. The Chancellor of the California Community Colleges may increase the various foundation programs in accordance with the specifications in the Budget Act in order to apportion amounts specifically appropriated in the Budget Act for cost increases due to inflation. Such increases shall be effective only during the fiscal year for which such appropriation is made.

In increasing the necessary small school foundation programs computed for community college districts with an average daily attendance of less than 1,001, he shall compute the increase as if it were for the maximum number of students allowed in the applicable necessary small school range in which the districts fall.

84725. Except for the areawide foundation programs the Chancellor of the California Community Colleges shall increase the various foundation programs for each school unit of average daily attendance by sixteen dollars (\$16) in the 1972-73 fiscal year and an additional four dollars (\$4) in each fiscal year thereafter to a maximum of forty dollars (\$40). The Chancellor of the California Community Colleges shall compute the increased foundation support pursuant to this section as though no areawide school support programs were in operation in the state. The Chancellor of the California Community Colleges may adjust the small school foundation programs at the community college levels in accordance with this increase in the regular foundation program.

In addition the Chancellor of the California Community Colleges shall in making the computation prescribed in Sections 84731 and 84780 increase the computational tax in Sections 84731 and 84780 by:

- (a) Eight-tenths of one cent (\$.008) in the 1972-73 fiscal year and an additional two-tenths of one cent (\$.002) in each fiscal year thereafter to a maximum of two cents (\$.02) in a community college district.

Further, the Chancellor of the California Community Colleges shall identify to each community college district the amount of increased foundation support granted under this section which shall be used as a limitation on the taxes that may be levied and collected annually under the provisions of Section 23401.

### Article 3. Computation of District Aid

84730. On or before November 15th of each year, the county auditor of each county shall furnish to the Chancellor of the California Community Colleges the assessed valuation and tax rates of each community college district or portion of district situated within his county, as shown by the equalized assessment roll of the county for the year.

84731. The Chancellor of the California Community Colleges shall compute for each community college district described herein the amount, to be known as district aid, which a tax levied on each one hundred dollars (\$100) of 100 percent of the assessed valuation

in such district as shown by the equalized assessment roll of the district for the current year, as modified pursuant to Section 84201, would produce if levied, if such tax was thirty-nine cents (\$.39).

84732. (a) Upon the request of the district, the Chancellor of the California Community Colleges shall use in computing district aid the difference between: (1) the total assessed valuation of property in a district as shown on the equalized assessment roll for the fiscal year; and (2) the assessed valuation of property as shown on the equalized assessment roll for the fiscal year, with respect to which revenues of the district taxes levied in the 1954-1955 fiscal year, or thereafter, are impounded, or could, if paid, be impounded, by the county auditor pursuant to Section 14240. The county auditor shall from time to time determine and certify to the Chancellor of the California Community Colleges the amounts of assessed valuation of property described in subpart (2) of the preceding sentence.

(b) Whenever, after July 1, 1955, the county auditor notifies the Chancellor of the California Community Colleges and the Controller of the release of impounded tax revenues to the community college district, or of the receipt of tax revenues which would have been impounded if paid when due, the Chancellor of the California Community Colleges shall compute and certify to the Controller the amount to be deducted, and the Controller shall deduct, from the apportionment or apportionments from the State School Fund to the district, in the first fiscal year or the second fiscal year succeeding such notification of release or receipt, that amount apportioned to the district in any prior year or years by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released, or with respect to tax revenues which would have been impounded, if paid when due, and which were subsequently paid, as the case may be, plus interest of 3½ percent compounded annually.

The provisions of this section shall not apply to impounded tax receipts derived from assessment of water, where the procedures of Section 84733 have been utilized.

84733. When the total tax revenues realized in respect to any school district from the levy of district taxes for any fiscal year are less than would have been realized from the total assessed value of property in the district because of allocations of tax receipts to a redevelopment agency pursuant to Article 6 (commencing at Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code, the governing board of a community college district may request the Chancellor of the California Community Colleges to compute district aid for the district under this section. Upon receipt of such a request, the Chancellor of the California Community Colleges shall, in computing district aid, reduce the amount of the total assessed valuation in the district as shown by the equalized assessment roll for the year by the amount of such assessed valuation upon which such tax receipts for such fiscal year are to be allocated to the redevelopment agency.

84734. (a) Upon request of a district, the Chancellor of the California Community Colleges shall use in computing district aid the total assessed valuation of property in a district as shown on the equalized assessment roll for the fiscal year, reduced by the portion thereof representing the total assessed valuation of water with respect to which revenues of the district taxes levied in the 1958-1959 fiscal year or thereafter are impounded by the county auditor pursuant to Section 26906.1 of the Government Code.

(b) Whenever, after July 1, 1959, the county auditor notifies the Chancellor of the California Community Colleges and the Controller of the release of such impounded tax revenues to the community college district, the Chancellor of the California Community Colleges shall compute and certify to the Controller the amount to be deducted, and the Controller shall deduct, from the apportionment or apportionments from the State School Fund to the district, in the first fiscal year or the second fiscal year succeeding such notification of release, that amount apportioned to the district in any prior year or years by reason of the exclusion under this section, of assessed valuation with respect to tax revenues impounded and thereafter released.

84735. For the purpose of computing allowances and apportionments, other than severance aid, from the State School Fund for community college districts qualifying for severance aid as provided in Section 84870, the total assessed valuation in the district as shown by the equalized assessment roll shall be increased as follows: For the first year qualifying property is excluded from the assessment roll as exempt property, there shall be added to the total assessed valuation an amount equal to the assessed value of said qualifying property as used to compute the amount of severance aid. The next following year there shall be added to the total assessed valuation four-fifths of the assessed value of qualifying property as used to compute the amount of severance aid; the second following year there shall be added three-fifths of said assessed value; the third following year there shall be added two-fifths of said assessed value, and the fourth following year there shall be added one-fifth of said assessed value.

In the event more than one allowance of severance aid is payable because qualifying property is acquired during more than one fiscal year, the increase in total assessed valuation required by this section shall be made separately as to qualifying property acquired in each such year.

"Qualifying property" for the purposes of this section means property acquired for state highway purposes which, by reason of its assessed value, either alone or in combination with other property, and the identity of the acquiring agency or agencies, qualifies the district to receive severance aid.

84736. Whenever the assessed valuation of motion pictures, including the negatives and prints thereof, is lowered because of the operation of Section 988 of the Revenue and Taxation Code and

whenever any community colleges district receives replacement funds from the state for the loss of revenue to a district occasioned by the operation of Section 988, the Chancellor of the California Community Colleges shall, in computing district aid, add the amount of assessed valuation which was the basis for the allocation of state replacement funds to the actual assessed value of the district before computing apportionments to the districts.

84737. Whenever, subsequent to the date of formulation of the last equalized assessment roll in a county, the county superintendent of schools finds that the assessment equalizations conducted under Part 3 (commencing with Section 1601) of Division 1 of the Revenue and Taxation Code have resulted in a substantial reduction or increase in the assessed valuation of property of a community colleges district as compared to that reported pursuant to Section 84730, the county auditor shall notify and furnish to the Chancellor of the California Community Colleges, on or before the 15th of April in the fiscal year, the corrected assessed valuation of property within the district. The Chancellor of the California Community Colleges shall utilize the corrected valuation amounts for purposes of making all computations prescribed by this article for the district for this fiscal year. Upon receipt thereof, the Chancellor of the California Community Colleges shall make the necessary revisions in all computations affecting the district made under this article.

84738. The Chancellor of the California Community Colleges shall, in computing district aid, add the amount of assessed valuation which was the basis for the allocation of state replacement funds pursuant to Section 84070 to the actual assessed valuation of the district before computing apportionments to the district.

#### Article 4. Computation of Basic Aid

84760. The Chancellor of the California Community Colleges shall allow to each community college district one hundred twenty-five dollars (\$125) for each unit of average daily attendance in grades 13 and 14.

Average daily attendance for the purpose of this section shall be computed under Sections 84520 and 84550, subject to the provisions of Sections 84706 and 84721.

The Chancellor of the California Community Colleges shall exclude from the computation of allowances provided by this section the average daily attendance of nonresident students, adults as defined in Section 78460, and of inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults.

#### Article 5. Equalization Aid

84770. The Chancellor of the California Community Colleges shall compare the total of the amounts allowed to, and computed for,

each community college district pursuant to Sections 84731 and 84760, with the amount of the foundation program computed for each district pursuant to Section 84550.

If the total amount computed for any district pursuant to Sections 84731 and 84760, is less than the amount of the foundation program computed for such district pursuant to Section 84550, he shall add to the amount computed for such district pursuant to Sections 84731 and 84760, such additional amount, to be known as state equalization aid, as may be necessary to equal that computed for such district pursuant to Section 84550.

84771. No state equalization aid shall be allowed unless there shall have been levied pursuant to this code, for a district during the fiscal year, a tax, exclusive of taxes levied under Sections 8329, 15250, 15743, 16090, and 85110 of not less than thirty-five cents (\$.35).

84772. The Chancellor of the California Community Colleges shall compute the state equalization aid pursuant to this article upon the basis that the district's assessed value has not been reduced by the partial exemption for business inventories in the district or reduced by the homeowner's property tax exemption.

#### Article 6. Allowances—Education of Adults and Inmates

84780. The allowance for each unit of average daily attendance during the fiscal year for adults, as adults are defined in Section 78460, shall be:

(a) For each unit of average daily attendance attached to a community college, five hundred fifty-six dollars (\$556) less the product of twenty-four cents (\$.24) multiplied by each one hundred dollars (\$100) of the assessed valuation of the district, as modified pursuant to Section 84201, per unit of average daily attendance exclusive of adults. The allowance for each unit of average daily attendance attached to a community college shall be increased by 7 percent for the 1974-75, 1975-76, and 1976-77 fiscal years and by 6 percent for the 1977-78 fiscal year, and fiscal years thereafter, unless revised by the Legislature prior to July 1, 1977.

The allowance provided by this section for each unit of average daily attendance of an adult, as an adult is defined in Section 78460, not residing in the district and not residing in any district maintaining a community college shall be limited to one hundred twenty-five dollars (\$125) as basic state aid and no allowance shall be made based on state equalization aid. The total of basic and equalization aid allowed each district shall not be less than one hundred twenty-five dollars (\$125) for each unit of average daily attendance during the fiscal year for resident adults, exclusive of average daily attendance in classes for inmates of any state institution for adults and for inmates of any city, county, or city and county jail, road camp or farm for adults; unless the inmate is attending a community college class or program pursuant to Section 2690 of the Penal Code, in which case such attendance shall be included.

84781. The Chancellor of the California Community Colleges shall allow to each community college district an amount equal to the actual current expense of the district of maintaining adult education classes for prisoners in any county jail, or any county industrial farm or county or joint county road camp for the current fiscal year. The amount so allowed to a district for each unit of average daily attendance in such classes shall in no event exceed the total of the amounts allowed to the district as basic state aid and state equalization aid for each unit of average daily attendance of the district exclusive of the average daily attendance of the district in classes for adults.

For purposes of this section, the Chancellor of the California Community Colleges shall, by rules and regulations, establish minimum standards for the conduct of the adult education classes, including, but not necessarily limited to, attendance requirements and requirements concerning records to be kept and reports to be submitted.

#### Article 7. Students Not Residents

84790. For each fiscal year, the Chancellor of the California Community Colleges shall allow to each community college district for each unit of average daily attendance of students not residing in the district and not residing in any district maintaining a community college, one hundred twenty-five dollars (\$125) as basic state aid.

There shall be excluded from the computation of allowances provided by this section the average daily attendance of adults, as adults are defined in Section 78460, and of inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp, or farm for adults; unless the inmate is attending a community college class or program pursuant to Section 2690 of the Penal Code, in which case such attendance shall be included.

#### Article 8. Vocational Education Programs

84800. Notwithstanding any other provision of law, the Chancellor of the California Community Colleges shall allow for each unit of average daily attendance reported pursuant to Section 84533, the sum equal to the average amount apportioned as basic state aid and state equalization aid for each unit of average daily attendance in grades 13 and 14 in all of the districts participating in the vocational program in which the students whose attendance is so reported are enrolled.

No other amount shall be apportioned for such units of average daily attendance.

## Article 9. Transportation

84810. The Chancellor of the California Community Colleges shall not allow under this article, except under Section 84817 whichever is in effect, during any fiscal year a total amount in excess of the amount provided by law.

84811. The Chancellor of the California Community Colleges shall allow to each community college district such amount as is required by this article.

84812. (a) "Transportation" as used in this article means, unless the context otherwise requires:

(1) The transportation of students between their homes and the regular full-time day schools attended by them as provided by a school district.

(2) The payment of moneys by a community college district to parents or guardians of students in lieu of providing for the transportation of such students between their homes and the regular full-time day schools attended by them.

(3) The providing of board and lodging to students by a community college district in lieu of providing for the transportation of such students between their homes and the regular full-time day schools attended by them.

(b) "Total current expenses of transportation" as used in Sections 41856, 41857, and 41859 does not include:

(1) Current expenses for the transportation of students for whose transportation the Chancellor of the California Community Colleges makes an allowance to the district under Section 84817, whichever is in effect; or,

(2) Any amount of rental of schoolbuses which is in excess of the amount allowable to community colleges districts for replacement of district-owned buses in accordance with regulations of the Chancellor of the California Community Colleges relating to allowances for student transportation. Renting or leasing a schoolbus does not include a lease with option to purchase.

84813. The Chancellor of the California Community Colleges shall make all allowances under this article during a fiscal year in accordance with regulations, not in conflict with this article, adopted by him, and he is hereby authorized and directed to adopt such regulations. None of such regulations shall be binding upon any community college district, but no allowance shall be made under this article to a community college district for any item of current expense or capital outlay with respect to which the community college district has failed to comply with the regulations of the Chancellor of the California Community Colleges applicable to such item.

The regulations adopted by the Chancellor of the California Community Colleges hereunder shall, among other matters:

(a) Prescribe the records to be kept by, and reports to be made by, community college districts.

(b) Fix the minimum distances for the sole purpose of determining the total current expenses of a district for transportation.

(c) Determine what expenditures constitute "current expenses."

(d) Establish and prescribe formulae for the sole purpose of computing financial allowances under which schoolbuses may be acquired in accordance with the provisions of Section 41860.

(e) Provide for the review and approval of all expenditures upon which allowances are computed.

(f) Establish and prescribe formulae for the sole purpose of computing financial allowances for reimbursement of replacement expenses incurred by a community college district replacing schoolbuses.

84814. For purposes of any regulation making the time or hours during a schoolday during which a schoolbus is operated, a factor in the computation of transportation allowances, the Chancellor of the California Community Colleges shall utilize no less than the period of time between the time when the schoolbus departs from the location in which it is customarily stationed when not in use, and the time when the schoolbus is returned there at the end of the day, excluding the time during which the schoolbus is not in use between trips during the day.

84815. Of the funds allocated for expenditure for transportation in each fiscal year, there shall be reserved the amount necessary to provide the allowances prescribed by this section, but not to exceed one and one-half percent (1.5%) of the amount designated in subdivision (d) of Section 84301.

The allowances prescribed by this section shall be provided in each fiscal year for any eligible community college district upon application therefor submitted to the Chancellor of the California Community Colleges by the governing board of such district. Such allowance shall be provided only if the Chancellor of the California Community Colleges determines that the transportation expense of the district for the preceding fiscal year is substantially affected by sparsity of population in all or a portion of the district, such as to require that excessive distances be traveled to transport relatively few students to the regular day classes of the district.

The Chancellor of the California Community Colleges shall allow to each eligible district the amount computed as follows:

(a) He shall compute from the annual report of transportation expense of the district the portion of the total transportation expense which is due to travel for excessive distances to transport relatively few students.

(b) He shall compute from the annual report of transportation expense of the district, prior to the application of any deficit under Section 84819, the percentage of the approved transportation expense represented by the allowances to the district provided by the other provisions of this article.

(c) He shall multiply the portion of the total transportation

expense computed under subdivision (a) by the percentage computed under subdivision (b).

The Chancellor of the California Community Colleges may adopt rules and regulations defining "excessive distances" and "relatively few students," and making provision for any other matter he may deem essential to the effective administration of this section.

84816. The Chancellor of the California Community Colleges in approving, under this article, current expenses of community college districts for the transportation of students shall apply the same standards and basis for such approval to expenditures for such transportation provided by a district in schoolbuses owned and operated by the district and expenditures for such transportation provided by a contract with a common carrier, municipally owned transit system as defined in Section 82300, or a private party.

84817. (a) In addition to all other amounts allowed to a community college district under this article, the Chancellor of the California Community Colleges shall allow to each community college district for transporting blind, deaf, aphasic, orthopedic or other health-impaired, and other physically impaired students handicapped in mobility, mentally retarded students who come within the provisions of Section 56515, autistic students who come within the provisions of Section 78604, and multihandicapped students, to and from special day classes, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such students during the fiscal year resulting from the attendance of such students on the special day classes to and from which they are transported by the district.

In addition to all other amounts allowed to a community college district under this article, the Chancellor of the California Community Colleges shall allow to each community college district for transporting deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped students who come within the provisions of Section 56160, to and from experimental programs approved by him, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such students during the fiscal year resulting from the attendance of such minor students in the experimental programs to and from which they are transported by the district.

(b) As used in this section, "physically impaired minors handicapped in mobility" means those minors who are deemed eligible for special class placement as defined by the board of governors.

(c) If the Chancellor of the California Community Colleges determines that the current expense of providing transportation under this section does not equal or exceed the allowance provided for such purpose, then the amount of the deficiency shall be withheld from state apportionments to the community college district, in accordance with the procedure prescribed in Section 84330. Such

amounts withheld shall then be apportioned, on a pro rata basis against the expenses, to those districts which maintain and operate vehicles exclusively for the transportation of handicapped students. In no case shall any district receive an amount greater than its total current expense in providing such transportation.

(Amended by Stats 1976, Ch. 1011 )

{ORIGINAL SECTION}

84817 (a) In addition to all other amounts allowed to a community college district under this article, the Chancellor of the California Community Colleges shall allow to each community college district for transporting blind, deaf, aphasic, orthopedic or other health-impaired, and other physically impaired students handicapped in mobility, mentally retarded students who come within the provisions of Section 56515, autistic students who come within the provisions of Section 78604, and multihandicapped students, to and from special day classes, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such students during the fiscal year resulting from the attendance of such students on the special day classes to and from which they are transported by the district.

In addition to all other amounts allowed to a community college district under this article, the Chancellor of the California Community Colleges shall allow to each community college district for transporting deaf, severely hard-of-hearing, blind, deaf-blind, or other multihandicapped students who come within the provisions of Section 56160, to and from experimental programs approved by him, three hundred eighty-nine dollars (\$389) for each unit of average daily attendance of such students during the fiscal year resulting from the attendance of such minor students in the experimental programs to and from which they are transported by the district.

(b) As used in this section, "physically impaired minors handicapped in mobility" means those minors who are deemed eligible for special class placement as defined by the board of governors.

(c) If the Chancellor of the California Community Colleges determines that the current expense of providing transportation under this section does not equal or exceed the allowance provided for such purpose, then the amount of the deficiency shall be withheld from state apportionments to the community college district or the county superintendent of schools, as the case may be, in accordance with the procedure prescribed in Section 84330. Such amounts withheld shall then be apportioned, on a pro rata basis against the expenses, to those districts which maintain and operate vehicles exclusively for the transportation of handicapped students. In no case shall any district receive an amount greater than its total current expense in providing such transportation.

84818. As used in Section 84817, "blind" includes partially seeing, "deaf" includes hard of hearing, and "special day classes" includes integrated programs of instruction for physically handicapped minors including those handicapped in vision or hearing where the services of a qualified special teacher are provided.

An integrated program of instruction for physically handicapped minors including those handicapped in vision or hearing shall be defined as any program in which such physically handicapped

minors receive their education in regular classrooms from regular classroom instructors, but receive, in addition, supplementary instructing services of a full-time special instructor, possessing a valid credential to instruct exceptional minors of the type enrolled in the program. Such supplementary instruction may include instruction in the appropriate tool skills, the provision of special materials and use of appropriate special equipment, and counseling and guidance necessary to enable physically handicapped minors and those handicapped in vision and hearing to benefit fully from their instruction.

As used in this section, physically handicapped minors means those physically handicapped minors who are deemed eligible for special class placement as defined by the board of governors.

84820. In addition to all other amounts allowed to a community college district under this article, the Chancellor of the California Community Colleges shall allow to each community college district for transporting minor students whose vision or hearing is impaired to a degree making it practical to transport them to the California School for the Blind or to the California School for the Deaf or to some location in another community college district where specialized instruction may be afforded, three hundred eight-nine dollars (\$389) for each unit of average daily attendance of such students during the fiscal year resulting from the attendance of such students on the classes of specialized instruction to and from which they are transported as day class students.

For each community college district furnishing transportation under circumstances requiring the operation of vehicles exclusively for that purpose, the Chancellor of the California Community Colleges shall allow 75 percent of any expense in excess of three hundred eighty-nine dollars (\$389), but the additional allowance shall not exceed seventy-three dollars (\$73), per unit of average daily attendance of such students. Such amount shall be allowed as a part of the second principal apportionment upon special request made therefor to, and upon approval by, the Chancellor of the California Community Colleges.

Allowances under this section shall be subject to the approval of the Chancellor of the California Community Colleges of the practicality of transporting the students involved in any particular instance to the place where specialized instruction is afforded.

If the Chancellor of the California Community Colleges determines that the current expense of providing transportation under this section does not equal or exceed the allowance provided for such purpose, then the amount of the deficiency shall be withheld

from state apportionments to the community college district in accordance with the procedure prescribed in Section 84330. Such amounts withheld shall then be apportioned, on a pro rata basis against the expenses, to those districts which maintain and operate vehicles exclusively for the transportation of handicapped students. In no case shall any district receive an amount greater than its total current expense in providing such transportation.

#### Article 10. Special Education

84830. The Chancellor of the California Community Colleges shall allow, during the current fiscal year, to each community college district maintaining special day classes for the education of physically handicapped students (as defined by Sections 78701 and 78702), mentally retarded students (as defined by Sections 78800 and 78801), educationally handicapped students (as defined by Section 78600), the amounts prescribed by this article for each of the respective types of class maintained for the fiscal year.

84831. As used in this article, "special day classes" includes integrated programs of instruction for physically handicapped students including those handicapped in vision or hearing where the services of a qualified special instructor are provided.

An integrated program of instruction for physically handicapped students including those handicapped in vision or hearing shall be defined as any program in which such physically handicapped students receive their education in regular classrooms from regular classroom instructors, but receive, in addition, supplementary instruction of a full-time special instructor, possessing a valid credential to teach exceptional children of the type enrolled in the program. Such supplementary services may include instruction in the appropriate tool skills, the provision of special materials and use of appropriate special equipment, and counseling and guidance necessary to enable physically handicapped students and those handicapped in vision and hearing to benefit fully from their instruction.

As used in this section, physically handicapped students means those physically handicapped students who are deemed eligible for special class placement as defined by the board of governors.

84832. The Chancellor of the California Community Colleges shall allow to each district for the education of physically handicapped students in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class-size category by the maximum class size established for each particular class-size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class-size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special

day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Community college grades (13-14)
Physically handicapped	
Class-size maximum of 5 .....	\$2,810
Class-size maximum of 8 .....	1,510
Class-size maximum of 10 .....	1,080
Class-size maximum of 12 .....	800
Class-size maximum of 16 .....	435
Class-size maximum of 20 .....	220

84834. The Chancellor of the California Community Colleges shall allow to each community college district for the education of mentally retarded students in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class-size category by the maximum class size established for each particular class-size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class-size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	Community college grades (13-14)
Mentally retarded (as defined in Section 78801)	
Class-size maximum of 15 .....	\$280
Class-size maximum of 18 .....	130

84836. The Chancellor of the California Community Colleges shall allow to each district for the education of educationally handicapped students in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class-size category by the maximum class size established for each particular class-size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class-size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

	Community college grades (13-14)
Category	
Educationally handicapped	
Class-size maximum of 12 .....	\$710
Autistic	
Class-size maximum of 6 .....	\$2,745

84837. The governing board of a community college district during the fiscal year may apply to the Chancellor of the California Community Colleges whenever sparsity of population or transportation distances make it impossible to maintain classes of the maximum size as prescribed by this code or by the board of governors. If the Chancellor of the California Community Colleges, upon review, finds that it is impossible to maintain classes of the maximum size as prescribed by this code or by the board of governors, he may add to the amounts allowed under Sections 84832 to 84836, inclusive, an amount sufficient to provide for the needed classes, but not more per special class than the applicable amounts computed in those sections.

It is the intent of the Legislature that the additional allowances authorized by this section be provided primarily for community college districts with an average daily attendance of less than 2,000. Allowances for community college districts with a current average daily attendance of 2,000 or more shall be provided, in any fiscal year, for no more than 2 percent of the community college districts having a current average daily attendance of 2,000 or more.

84838. (1) In addition to the allowance, provided under Sections 84832 to 84836, inclusive, the Chancellor of the California Community Colleges shall allow to community college districts for each unit of average daily attendance an amount as follows:

(a) For instruction of educationally handicapped students in learning disability groups, one thousand eight hundred eighty dollars (\$1,880).

(b) For instruction of educationally handicapped students in homes or in hospitals, one thousand three hundred dollars (\$1,300).

(c) For instruction of physically handicapped students in remedial physical education, seven hundred seventy-five dollars (\$775).

(d) For remedial instruction of physically handicapped students in other than physical education, two thousand dollars (\$2,000).

(e) For instruction of blind students when a reader has actually been provided to assist the student with his studies, or for individual instruction in mobility provided blind students under regulations prescribed by the board of governors, or when braille books are purchased, ink print materials are transcribed into braille, or sound recordings and other special supplies and equipment are purchased for blind students, or for individual supplemental instruction in vocational arts, business arts, or homemaking for blind students, nine hundred ten dollars (\$910).

Braille books purchased, braille materials transcribed from ink print, sound recordings purchased or made, and special supplies and equipment purchased for blind students for which state or federal funds were allowed are property of the state and shall be available for use by blind students throughout the state as the board of governors shall provide.

(f) For other individual instruction of physically handicapped students, one thousand three hundred dollars (\$1,300).

(g) For the instruction of physically handicapped students in regular day classes, one thousand eighteen dollars (\$1,018).

(h) For the instruction of mentally retarded students in regular day classes, one thousand eighteen dollars (\$1,018).

(i) For the instruction of educationally handicapped students in regular day classes, one thousand eighteen dollars (\$1,018).

(j) In lieu of benefits provided under subdivision (d) of Section 84838, there shall be allowed for the individualized remedial instruction of speech handicapped students by specially trained noncredentialed instructing assistants under the direct guidance of a speech therapist, one thousand eighteen dollars (\$1,018).

(2) (a) The allowances provided under Sections 84832 to 84836, inclusive, may be increased proportionately on account of special day classes convened, or other instruction provided a student, for days in a school year which are in excess of the number of days in the school year on which the regular day schools of a district are convened.

(b) The Chancellor of the California Community Colleges shall compute for each applicant community college district in providing in such year a program of specialized consultation to instructors, counselors and supervisors for educationally handicapped students, an amount equal to the product of ten dollars (\$10) and the average daily attendance of students enrolled in special day classes, learning disability groups, and home and hospital instruction for educationally handicapped students.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

84838. (1) In addition to the allowances provided under Sections 84832 to 84836, inclusive, the Chancellor of the California Community Colleges shall allow to community college districts for each unit of average daily attendance an amount as follows.

(a) For instruction of educationally handicapped students in learning disability groups, one thousand eight hundred eighty dollars (\$1,880)

(b) For instruction of educationally handicapped students in homes or in hospitals, one thousand three hundred dollars (\$1,300).

(c) For instruction of physically handicapped students in remedial physical education, seven hundred seventy-five dollars (\$775).

(d) For remedial instruction of physically handicapped students in other than physical education, two thousand dollars (\$2,000).

(e) For instruction of blind students when a reader has actually been provided to assist the student with his studies, or for individual instruction in mobility provided blind students under regulations prescribed by the board of governors, or when braille books are purchased, ink print materials are transcribed into braille, or sound recordings and other special supplies and equipment are purchased for blind students, or for individual supplemental instruction in vocational arts, business arts, or homemaking for blind students, nine hundred ten dollars (\$910).

Braille books purchased, braille materials transcribed from ink print, sound recordings purchased or made, and special supplies and equipment purchased for blind students for which state or federal funds were allowed are property of the state and shall be available for use by blind students throughout the state as the board of governors shall provide.

(f) For other individual instruction of physically handicapped students, one thousand three hundred dollars (\$1,300).

(g) For the instruction of physically handicapped students in regular day classes, one thousand eighteen dollars (\$1,018).

(h) For the instruction of mentally retarded students in regular day classes, one thousand eighteen dollars (\$1,018).

(i) For the instruction of educationally handicapped students in regular day classes, one thousand eighteen dollars (\$1,018)

(j) In lieu of benefits provided under subdivision (d) of Section 84838, there shall be allowed for the individualized remedial instruction of speech handicapped students by specially trained noncredentialed instructing assistants under the direct guidance of a speech therapist, one thousand eighteen dollars (\$1,018)

(2) (a) The allowances provided under Sections 84832 to 84836, inclusive, may be increased proportionately on account of special day classes convened, or other instruction provided a student, for days in a school year which are in excess of the number of days in the school year on which the regular day schools of a district are convened.

(b) The Chancellor of the California Community Colleges shall compute for each applicant community college district and county superintendent of schools in providing in such year a program of specialized consultation to instructors, counselors and supervisors for educationally handicapped students, an amount equal to the product of ten dollars (\$10) and the average daily attendance of students enrolled in special day classes, learning disability groups, and home and hospital instruction for educationally handicapped students

84839. For each special class or program for which a state allowance is provided under this article or under Section 84817 or 84820, each community college district maintaining such special classes or programs shall report annually to the Chancellor of the California Community Colleges, on forms he shall provide, all expenditures and income related to each special class or program.

If the Chancellor of the California Community Colleges determines that the current expense of operating a special class or program as defined in the Budget and Accounting Manual, California Community Colleges does not equal or exceed the sum of basic state aid, and state equalization aid provided in the regular foundation program per unit of average daily attendance and the allowance

provided under this article, and any amount of local tax funds contributed to the foundation program for each student in average daily attendance in the special class or program maintained by a community college district for each student in average daily attendance in special classes or programs maintained by the county superintendent of schools, then the amount of such deficiency shall be withheld from state apportionments to the community college district or the county superintendent of schools, as the case may be, in the succeeding fiscal year in accordance with the procedure prescribed in Section 84330.

Beginning with the 1971-72 fiscal year, expenditures for equipment that the Chancellor of the California Community Colleges determines are necessary for instruction in a special class or program for physically handicapped students shall be considered as current expense for purposes of this section. In any year the district's allowable expenditure for such equipment may not exceed 1 percent of the current expense of operating the district's physically handicapped program.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

84839. For each special class or program for which a state allowance is provided under this article or under Section 84817 or 84820, each community college district and each county superintendent of schools maintaining such special classes or programs shall report annually to the Chancellor of the California Community Colleges, on forms he shall provide, all expenditures and income related to each special class or program.

If the Chancellor of the California Community Colleges determines that the current expense of operating a special class or program as defined in the Budget and Accounting Manual, California Community Colleges does not equal or exceed the sum of basic state aid, and state equalization aid provided in the regular foundation program per unit of average daily attendance and the allowance provided under this article, and any amount of local tax funds contributed to the foundation program for each student in average daily attendance in the special class or program maintained by a community college district for each student in average daily attendance in special classes or programs maintained by the county superintendent of schools, then the amount of such deficiency shall be withheld from state apportionments to the community college district or the county superintendent of schools, as the case may be, in the succeeding fiscal year in accordance with the procedure prescribed in Section 84330.

Beginning with the 1971-72 fiscal year, expenditures for equipment that the Chancellor of the California Community Colleges determines are necessary for instruction in a special class or program for physically handicapped students shall be considered as *current expense for purposes of this section*. In any year the district's allowable expenditure for such equipment may not exceed 1 percent of the current expense of operating the district's physically handicapped program.

84840. The provisions of this article shall supersede any other provisions of this code in conflict therewith. Allowances under this article shall be provided pursuant to regulations of the board of governors and standards and requirements established by the board of governors.

## Article 11. Handicapped Students

84850. (a) The Chancellor of the California Community Colleges shall apportion to each community college district for the purpose of funding the excess direct district cost of providing special facilities, special educational material, educational assistance, mobility assistance, and transportation for physically handicapped students 21 years of age or older enrolled at a community college who have demonstrated a financial need for such benefits, an amount not exceeding four hundred dollars (\$400) in each fiscal year for each physically handicapped student 21 years of age or older enrolled at a community college who has demonstrated a financial need therefor.

(b) Each district applying for the apportionments authorized by this section shall require each physically handicapped student for whom benefits are to be provided to submit to the community college a statement of his financial condition. The community college shall grant such benefits on the basis of the demonstrated financial need of the applicant therefor. The Board of Governors shall adopt rules and regulations for determining when such financial need exists. The financial status of his parents shall be taken into consideration in determining the financial need of an applicant.

(c) No community college district may apply for an apportionment pursuant to this section unless it first certifies that it has made every reasonable effort to secure federal funds or other state funds for the purpose, and has been unable to secure sufficient funds.

## Article 12. Instructional Television

84860. The Chancellor of the California Community Colleges shall allow to each community college district participating in a program for instructional television established pursuant to Section 78310 or 78311, fifty cents (\$.50) multiplied by the number of students of the district present in the classroom and instructed by such instructional television programs during the preceding fiscal year. The amount of such allowance to a community college district shall not exceed one-half the total cost to the district of providing television broadcasts or closed-circuit television programs pursuant to Section 78310 or 78311. For the purpose of this section, no student shall be counted more than once per school year.

The allowances to community college districts and county superintendents of schools under this section shall be made from such moneys as may be appropriated therefor by the Legislature.

It is the intention of the Legislature that the system of allowances prescribed by this section shall remain in effect only until such time as a new apportionment formula for funding instructional television is developed and moneys are appropriated therefor. The board of governors shall adopt appropriate procedures to insure an orderly

transition to the new apportionment formula.

### Article 13. Severance Aid

84870. Whenever real property within a community college district is acquired for state highway purposes, the Chancellor of the California Community Colleges shall allow to the community college district an amount of severance aid as provided in this section, in addition to any other allowances provided by this chapter. For the five years following the acquisition of such property the Chancellor of the California Community Colleges shall allow to the community college district severance aid based on the amount of tax revenues the community college district would have received from such property if there had been no such acquisition, computed as follows: For the year following such acquisition, the district shall be allowed the amount of tax revenues, except revenues for bond interest and redemption, which would have been paid during the year of acquisition if the taxes assessed on the property acquired were then paid in full; for the second year the district shall be allowed 80 percent of such amount; for the third year the district shall be allowed 60 percent of such amount; for the fourth year the district shall be allowed 40 percent of such amount; and for the fifth year the district shall be allowed 20 percent of such amount.

84871. For community college districts in which the land acquisition was completed on or subsequent to June 30, 1962, but prior to November 23, 1970, the Chancellor of the California Community Colleges shall perform the computation prescribed in Section 84870 and compute the total amount of severance aid for a five-year period commencing with the date of completion of the acquisition. He shall determine an amount equal to 30 percent of the amount computed and certify the amount determined to the State Controller in the manner prescribed in Section 84874.

84872. Community college districts may apply for severance aid as provided in this article on forms provided by the Chancellor of the California Community Colleges, and in accordance with regulations which he is authorized to adopt.

84873. No allowance of severance aid shall be made as provided in Section 84870 or 84871 unless the total assessed value of taxable real property within the community college district is reduced by one-half of one (0.5) percent or more during a fiscal year by reason of acquisitions giving rise to severance aid as provided in Section 84870 or 84871. In determining whether or not the value of such acquisitions is equal to one-half of one (0.5) percent or more of the value of taxable real property, all such acquisitions made during each fiscal year shall be considered as one sum.

84874. On or before May 25th in each fiscal year, the Chancellor of the California Community Colleges shall determine and certify to the State Controller the amount of severance aid computed and to be allowed to community college districts under Section 84870 or

84871 for the fiscal year. On or before June 15th in each fiscal year, the State Controller shall order the transfer, from the Motor Vehicle Transportation Tax Account in the Transportation Tax Fund to the State School Fund, of the amount of severance aid computed and to be allowed to community college districts for the fiscal year as so certified, and the amount so computed and certified is hereby appropriated for purposes of such transfer. The Department of Public Works may charge or allocate to the appropriate particular projects on account of which severance aid was computed, the amounts so transferred. In the case of severance aid determined pursuant to Section 84871, the allowance shall be apportioned to the community college district in two equal annual installments.

#### Article 14. Recomputations of Allowances

84880. The total amount apportioned from Section B of the State School Fund shall not exceed the amount provided by law therefor. If the total amount provided for Section B of the State School Fund is greater than the total apportioned, the balance from any specified expenditure authorization in Sections 84300 and 84301 shall be used to decrease deficits in apportionments from Section B of the State School Fund in the order prescribed in Section 84882.

84881. If the total amount allowed for each subdivision in Sections 84300 and 84301 is less than the apportionments named in the subdivision, the apportionments shall be reduced proportionately or as otherwise prescribed. Prior to the close of the fiscal year, such reductions shall be restored to the extent possible pursuant to Section 84880.

84882. Balances available from any apportionments from Section B of the State School Fund and funds provided by subdivision (c) of Section 14030 shall be used to the extent necessary as follows:

(a) First, to restore any reduction in apportionments for basic aid and equalization aid for community college districts.

(b) Second, to restore any reduction in apportionments pursuant to Section 84819.

(c) Third, to restore any reduction in apportionments pursuant to Sections 84817, 84820, 84832, 84834, 84835, and paragraphs (c), (d), (e), (f), and (g) of subdivision (1) of Section 84838.

(d) Fourth, to restore any reduction in apportionments pursuant to Section 84836 and paragraphs (a) and (b) of subdivision (1) of, and paragraph (b) of subdivision (2), of Section 84838.

Any remaining balances otherwise transferable under subdivisions (b) and (c) of Section 14030 shall revert to the General Fund.

#### Article 15. Community College Academic Calendar and Student Measurement

84890. There is a pilot program for more flexible and effective nontraditional calendar and course scheduling in the community colleges.

The pilot program shall be limited to six community college districts, to be selected by the Board of Governors of the California Community Colleges.

The board of governors shall monitor and evaluate the costs and benefits of experimental, nontraditional calendars to be undertaken in the pilot districts and report its findings to the 1977-78 Regular Session of the Legislature. One objective of this chapter is to study use of a full-time equivalent measure of enrollment that produces a count as similar as possible to the previous average daily attendance count, while eliminating factors that theoretically convert enrollment to attendance. Inasmuch as the nationally recognized measure of semester course credit is defined for a term of 16 weeks, a second objective of this chapter is to evaluate a minimum instructional year of 160 days for community colleges similar to that of other segments of higher education while retaining the 175-day academic year. In addition, under provisions of this chapter, organization of instructional modules are no longer limited to the traditional quarter or semester modes. Flexible calendar scheduling will, among other effects, facilitate articulation of community college students with other segments of higher education, allow programs and courses to be designed on the basis of need and subject content, and provide opportunity to smooth peak student course demand within an educationally and fiscally responsible framework.

This chapter applies only to community college districts included in the pilot program.

In order to carry out the purposes of the pilot program the board of governors may waive the provisions of Sections 72252, 76302, 76310, 76311, 76312, 76320, 76321, 78008, 78200, 78206, 78460, 79002, 79028, 84370, 84372, 84520, 84522, 84524, 84525, 84526, 84528, 84531, 84532, 84533, 84550, 84701, 84706, 84760 and any other related sections as applied only to pilot districts.

84891. Beginning with fiscal year 1976-77, the academic year for community colleges shall be no less than 175 workdays, of which a minimum of 160 days, exclusive of Saturdays and Sundays, shall be devoted to instruction or examination or both in scheduled courses. Specific college calendars shall be determined by the district governing board.

All college personnel under contract for the academic year are to be accountable, as determined by the district, for the 175 workdays, which include, but are not limited to, the following activities:

- (a) Course instruction and examination;
- (b) Student personnel services;
- (c) Learning resource services;
- (d) Community and public services;
- (e) Related activities, such as student advising, guidance and orientation; staff development and in-service training; course, curriculum, and learning resource development; department and division meetings, conferences and workshops; program

development and evaluation; and institutional research; and

(f) The necessary supporting activities for the above.

The governing board of a community college district may provide for community college courses on Saturday or Sunday or both.

These days may be counted toward the 160-day minimum required when, due to unforeseen circumstances, a college is closed by order of the President of the United States or the Governor of the State of California.

Number and length of courses and sessions or terms scheduled during the academic year shall be determined by the governing board of the district.

84892. Community colleges shall be permitted to conduct, in addition to courses and sessions or terms scheduled during the academic year, other sessions and courses, graded and ungraded, any time during the fiscal year for any length of time during any day or days of the week, including Saturdays and Sundays. All such courses shall qualify for state and local fiscal support.

84893. The unit of student workload measurement shall be based upon contact hours of enrollment. The unit measure shall be student full-time equivalent contact hours of enrollment and, in graded courses, is derived by dividing the product of the mean average of active enrollment counts at specified census dates and the total contact hour value of each course by an appropriate divisor.

Contact hours of enrollment in ungraded courses (classes for adults) shall be divided by a divisor that produces a comparable unit of student workload measurement.

These divisors shall be determined by the Board of Governors of the California Community Colleges in cooperation with the Department of Finance.

For purposes of any other provision of this code, the unit of student workload measurement as defined under provisions of this section and set forth in Title 5 of the California Administrative Code shall be deemed to be average daily attendance for all community college purposes.

(a) Contact hours of enrollment in graded, term or session-length courses during the academic year shall be based upon two census counts of students enrolled on the days nearest one-fifth and three-fifths of the way through the term or session.

(b) Contact hours of enrollment in graded courses scheduled for longer or shorter periods than regular terms or sessions of the academic year or at other times during the fiscal year shall be based upon two census counts of students enrolled on the course meeting days nearest one-fifth and three-fifths of the way through the course; provided, that the first census would not occur earlier than the second meeting for courses scheduled to meet two or more times and that the second census would not be taken for courses meeting 12 times or less.

For purposes of subdivisions (a) and (b), the drop date for reporting students in active enrollment, as specified by rules and

regulations adopted by the Board of Governors of the California Community Colleges, shall be no later than the day prior to the second census date.

(c) Contact hours of enrollment in ungraded courses (classes for adults) shall be based upon a count of students present at each course meeting.

(d) Contact hours of enrollment of adults, as defined in Section 78460, shall be reported separately.

(e) Contact hours of enrollment of all students not residents of a community college district shall be reported separately.

(f) Contact hours of enrollment of all students not residents of California shall be reported separately.

84894. One semester credit hour of community college work is approximately 48 hours of lecture, study, recitation, demonstration-discussion, and laboratory work or any combination thereof, over any period of time.

84895. Provisions of this chapter shall be implemented at no gain or loss in district operating revenue per unit of student workload. This may be accomplished without changing base revenue and state aid for individual districts in the year of implementation. To the extent that counts of the new units of student workload differ from average daily attendance only because of new measurement techniques, there may need to be proportionate changes in a district's revenue base per student and in the state foundation programs.

The Board of Governors of the California Community Colleges shall adopt rules and regulations setting forth definitions, procedures, and guidelines to implement this chapter.

84896. Notwithstanding any provision of this chapter, state apportionments to community colleges shall continue to be calculated on the basis of a 175-day academic year.

## CHAPTER 6. DISTRICT FINANCIAL STATEMENTS AND BUDGET REQUIREMENTS

### Article 1. Financial Statements

85000. On or before the 15th day of August of each year the governing board of each community college district shall prepare and keep on file for public inspection a statement of all receipts and expenditures of the district for the preceding fiscal year and a statement of the estimated total expenses for the district for the current fiscal year.

85001. The statement shall be in the form prescribed by the board of governors.

85002. The budget of the governing board for the current fiscal year shall be a part of the statement.

85003. Except in community college districts where no district tax is levied, the publication budget for the ensuing school year to

which it is intended to apply, showing program expenditures, cash balances, and all the appropriations from the state as required to be tabulated in Section 85021 for the ensuing and last preceding fiscal year, and the district tax requirement for the school year to which the publication budget is intended to apply and for the last preceding school year, including a summary of the district tax requirements for the ensuing fiscal year to be derived by levies on the secured roll as shown on the budget form prescribed for this purpose by the board of governors, shall be published by the county superintendent of schools at least once in a newspaper of general circulation published within the district, or if there is no such newspaper, then in any newspaper of general circulation in the district, prior to its adoption. The cost of the publication shall be a proper and legal charge against the community college district or districts for which the publication is made, and shall not exceed the rate fixed by the board of supervisors for official advertising. Publication shall be made during the last week in July of each year, and shall contain a notice that a public hearing will be held before the governing board of the community college district, in a schoolhouse in the district, or in some other place conveniently accessible to the residents of the district, during the first week in August at which any taxpayer in the district may appear and object to the proposed budget or any item of the budget. The hearing may be concluded on such publication budget when there are no requests on file for further hearing. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held. In the case of a community college district or districts in which the average daily attendance of all said districts combined is in excess of 200,000, governed by the same governing board, the public hearing during the first week in August need not be held if there has been at least one public meeting on the publication budget prior to the first week of August, at which public meeting any changes proposed to be made in the publication budget for the final budget shall have been presented.

85004. Any violation of this chapter or a failure to comply with its provisions by the county superintendent of schools or by the governing board of a community college district is punishable under Section 1222 of the Government Code.

85005. The governing board of a community college district may print and distribute in pamphlet form an annual financial statement of the receipts and expenditures of the district, and may include in the pamphlet a general report concerning the conduct and condition of the schools of the district. Similar information of value to the public regarding the school system may be printed and distributed from time to time, or published not oftener than once a year, in a newspaper of general circulation published within the district.

## Article 2. Budget Requirements

85020. As used in this article, "budget" includes the preliminary budget, the tentative budget and the adopted budget of a community college district.

85021. The adopted annual financial and budget report of a community college district shall show, as specified by the office of the Chancellor of the California Community Colleges, a statement of the proposed expenditures and of the estimated revenues for the ensuing fiscal year, together with a comparison of each item of revenue and expenditures, with the actual revenues and expenditures of the fiscal year just completed. The tentative as well as the publication annual financial and budget reports may show estimated where actual figures cannot be determined at the time.

The county superintendent of schools shall from his own records supply to the community college district any information that it may need to make the comparisons required by this section.

85022. Each annual financial and budget report shall be made in quintuplicate as the form is prescribed by the office of the Chancellor of the California Community Colleges. Standard forms shall be prepared to show the budgeting items and comparisons required by this article.

85023. (a) On or before the first day of July in each year, each community college district shall file a tentative budget with the county superintendent of schools.

(b) On or before July 15, in each year, the county superintendent of schools:

(1) Shall examine and may make technical corrections to the tentative budget, and indicate changes he deems desirable or necessary to determine the tax requirement; and

(2) Shall make any recommendations he deems necessary to insure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board of the community college district a written explanation of the reasons for such changes.

(c) On or before July 20 in each year, the governing board shall make such changes in the tentative budget as it deems necessary or desirable and shall return the budget to the county superintendent of schools. Such budget shall constitute the publication budget for the period to which it is intended to apply. A copy of this publication district budget shall be sent to the county auditor in such form.

(d) On or before the eighth day of August, the governing board of each community college district shall adopt a final budget and shall file such budget with the county superintendent of schools, the county auditor, the county board of supervisors, and the Chancellor of the California Community Colleges.

(e) On or before the 15th day of August, the county superintendent shall approve the adopted budget for each community college district as officially adopted and submitted by its

governing board, and shall file one copy of the adopted budget of each community college district with the board of supervisors, one copy with the auditor of his county, and one copy with the office of the Chancellor of the California Community Colleges, together with a statement showing the amount of community college district taxes required by each community college district of the county.

85024. If the governing board of any community college district neglects or refuses to make a community college district budget as prescribed by the office of the Chancellor of the California Community Colleges, the county superintendent of schools may not make any apportionment of state or county money to the particular community college district for the current community college fiscal year.

## CHAPTER 7. LOCAL TAXATION BY DISTRICTS

### Article 1. Maximum Tax Rates

85100. Notwithstanding the provisions of this article or any other provisions of law to the contrary, the governing board of a community college district may have levied and collected community college district taxes, over a period of three years, without limitation as to rate, for purposes of providing funds for the annual district share of any project approved pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of this division, including any funds required to obtain federal funds for such project or any part of the project and such state funds as are allocated pursuant to Section 16352.5 of the Government Code. If at the end of any fiscal year there remains an unencumbered balance derived from the revenue of the tax rate hereby provided, such balance shall be used exclusively for the purpose of providing funds for the district matching share of any project approved pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of this division.

### Article 2. Increase or Decrease of Maximum Tax Rate

85110. The maximum rate of community college district tax for any school year is hereby increased by such amount as will produce the amount of the proposed expenditures of the community college district required or authorized pursuant to Sections 82530 to 82547, inclusive, and Sections 10900 to 10915, inclusive, as shown by the budget of the district for such school year, as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from the revenue from the increase in the rate of tax provided by this section.

The increase provided by this section shall not exceed five cents (\$.05) per each one hundred dollars (\$100) of the assessed value of property within the district, and said increase shall be in addition to any other community college district tax authorized by law to be levied.

If at the end of any school year there remains an unencumbered balance derived from the revenue of the increase in tax rate hereby provided, such balance shall be used exclusively in the following school year for the expenditures of the community district during that year required or authorized by Sections 87710 and 87711 and Sections 82530 to 82547, inclusive, and Sections 10900 to 10915, inclusive.

85111. Notwithstanding the provisions of Section 85110, a district may accumulate from year to year any unencumbered balance derived from the tax levied under Section 85110, provided that the accumulated money is ultimately expended for a purpose authorized by Sections 87710 and 87711, Sections 82530 to 82547, inclusive, or Sections 10900 to 10915, inclusive.

85112. Effective September 4, 1973, and thereafter, the revenue limit per unit of average daily attendance for any community college district, as computed pursuant to law for any school year affected, may be increased and, having been increased, may be decreased, by an amount equal to or less than the amount of such increase, by a majority vote of the qualified electors of the district at an election which may be ordered by the governing board of the community college district of its own motion and shall be ordered within 90 days after the filing with the governing board of a petition signed by not less than 10 percent of the registered voters of the district, requesting that an election be ordered, unless the petitioners request that the election be consolidated with the annual election for members of the governing board, or that the election be consolidated with the general election.

The governing board shall determine whether the increase or decrease shall remain in effect for a specified or unspecified period of time, unless the petition filed by the electors provides for a specified or unspecified period of time. If a specified period is provided for in the petition or determined upon by the governing board, such period shall be stated on the ballot.

Pursuant to the order of the governing board, the election shall be called, held, and conducted as nearly as is practicable in accordance with the provisions of Chapter 3 (commencing with Section 5300) of Part 4 of Division 1 of Title 1.

The specification of the election order shall contain the information provided in Section 5322 and shall be furnished by the governing board of the district for all revenue limit increase or decrease elections ordered by it.

The costs incurred by the county clerk or registrar of voters and the county superintendent of schools in connection with this section shall be paid out of the funds of the district.

Except as otherwise herein provided, the ballot used in the election shall contain substantially the words "Shall there be authorized an (increase, decrease) in the revenue limit per unit of average daily attendance in the amount of \_\_\_\_\_ dollars

(\$ \_\_\_\_\_), such (increase, decrease) to be effective in the \_\_\_\_\_ Community College District for (the school year 19\_\_\_\_ only; the school years 19\_\_\_\_ through 19\_\_\_\_; \_\_\_\_\_ school years commencing 19\_\_\_\_), the revenues of which are to be used for \_\_\_\_\_?

“This (increase, decrease) would constitute an (increase, decrease) for the school year 19\_\_\_\_ from approximately \_\_\_\_\_ dollars (\$ \_\_\_\_\_) to approximately \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per unit of average daily attendance.

“The proposed (increase, decrease) of the revenue limit of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per unit of average daily attendance will authorize an (increase, decrease) in the estimated maximum general purpose tax rate of the district in the first year 19\_\_\_\_ from approximately \_\_\_\_\_ dollars (\$ \_\_\_\_\_) [the approximate maximum general purpose tax rate which would be applicable in 19\_\_\_\_ in the event this proposition is not approved, although the maximum general purpose tax rate of the district for 19\_\_\_\_ was approximately \_\_\_\_\_ dollars (\$ \_\_\_\_\_)] to approximately \_\_\_\_\_ dollars (\$ \_\_\_\_\_) for each one hundred dollars (\$100) of assessed valuation of property.” (The explanatory language set forth above in brackets may, at the option of the district governing board, be eliminated or appropriately modified.) Opposite such words, in separate lines, the words “Yes” and “No” shall be printed, with a voting square opposite each such word. If, at any prior election held in the district after July 11, 1973, the revenue limit of the district had been increased for a specified period of time, and if the election is called for the purpose of continuing in effect the previously authorized increase in the revenue limit per unit of average daily attendance of the district, the ballot shall contain substantially the words “Shall the existing revenue limit increase of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per unit of average daily attendance be continued in the \_\_\_\_\_ Community College District for the school years 19\_\_\_\_ through 19\_\_\_\_, the revenues of which are to be used for \_\_\_\_\_?” Opposite such words in separate lines, the words “Yes” and “No” shall be printed with a voting square opposite each such word. Each voter shall stamp a cross in the voting square after the answer he desires to give.

Whenever the revenue limit per unit of average daily attendance of a district is increased for either a specified or unspecified period of time and during such period an election is called for the purpose of further increasing the revenue limit per unit of average daily attendance of the district, the ballot used in the election shall show only the authorized revenue limit increase per unit of average daily attendance of the district in effect at the time of the election and the proposed revenue limit increase per unit of average daily attendance.

If an election for a decrease in an increased revenue limit of a district is held in any year prior to or concurrently with the district election for governing board members, any decrease adopted at such

election shall become effective on July 1 following the election. If an election for a decrease in a revenue limit of a district is held in any year after the date of the district election for governing board members, any decrease adopted at such election shall not become effective until July 1 of the next succeeding year.

85113. The repeal, by the act enacting this section, of Section 85112 shall not operate to invalidate the results of any election ordered, called or conducted prior to April 25, 1974, and the legal effectiveness of any ballot proposition used in any such election, which ballot proposition substantially complies with the wording authorized by such repealed sections, or with the purpose and intent of such repealed sections, is hereby ratified and confirmed to the full extent of the power of the Legislature to do so. A community college district election for an increase or decrease in the revenue limit of such district ordered by the governing board prior to, in which the ballot proposition substantially complies with the wording authorized by Section 85112, as added by the act enacting this section, or which substantially complies with the intent and purpose of the newly added sections, shall be as fully effective as they would be had the newly added Section 85112 become effective prior to the ordering of such elections.

85114. Any such increase or decrease in tax rates or revenue limits shall remain in effect only for the period specified on the ballot, if such period was specified by the governing board.

85115. Whenever a high school district and a community college district which are coterminous have, pursuant to provisions of Section 85112, increased the combined tax rate otherwise applicable to the districts, and thereafter, the districts cease to be coterminous, the maximum tax rate of the high school district shall be the previously authorized combined tax rate less thirty-five cents (\$.35) on each one hundred dollars (\$100) of assessed valuation.

85116. Notwithstanding any provision of law to the contrary, no election for the purpose of increasing or decreasing any maximum tax rate for a community college district shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

85117. Any election called pursuant to Sections 85110 to 85114, inclusive, may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

85121. (a) This section shall only apply to those counties having a population in excess of 4,000,000 and to every community college district within such a county for which the board of supervisors fixes the annual district tax rate.

(b) Upon written request of the governing board of any community college district submitted to the county assessor on or before the 20th day of February, the county assessor shall not later

than the succeeding 15th day of May advise in writing the governing board of the district the estimated total assessed valuation of taxable property in the district for the next succeeding fiscal year, together with the estimated total assessed valuation of all taxable property appearing on the secured roll, the unsecured roll, and solvent credits.

### Article 3. Property Tax Revenue Control

85130. Any voted increase in the maximum tax rate, to be effective commencing with the 1973-74 fiscal year, which does not have a termination date shall be added to the 1972-73 and 1971-72 tax rates used to determine the 1972-73 base revenue per unit of average daily attendance.

Any voted increase in the maximum tax rate, to be effective commencing with the 1973-74 fiscal year, which does have a termination date shall be multiplied by the total estimated assessed valuation for 1973-74, and the result divided by the estimated foundation program average daily attendance of the second principal apportionment for 1973-74. This override tax revenue per average daily attendance shall be added to the revenue per average daily attendance for 1973-74 prior to the computation of the revenue limit of the district for 1973-74 pursuant to subdivision (f) of Section 20934 as that section read on July 1, 1974. For the computation of the revenue limit of the district for the year immediately following the last year of authorization of the voted override, the amount of this increase as it actually affected the revenue limit shall not be included.

85131. Notwithstanding Section 85130, any voted increase in the maximum tax rate, to be effective commencing with the 1973-74 fiscal year, which does have a termination date and whose sole purpose was the providing of construction funds shall not be subject to Section 85130, but shall, for each of the applicable fiscal years, be added to the maximum general purpose tax rate otherwise required to be levied.

85132. (a) For the 1974-75 fiscal year and each fiscal year thereafter, the maximum general purpose tax rate shall be computed pursuant to this section by the county superintendent of schools for each community college district in the county.

(b) The foundation program for 1974-75 fiscal years and subsequent fiscal years is as prescribed in Sections 84721 and 84810.

(c) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate inflated foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than 1, it shall be deemed to be 1.

(d) The foundation program per unit of average daily attendance for the prior year used as the dividend in subdivision (c) shall be as specified pursuant to Section 84721 for the appropriate fiscal year.

(e) For the fiscal years 1974-75, 1975-76, 1976-77, and fiscal years thereafter, the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year shall be determined for each district in accordance with Section 84721.

(f) The amount determined pursuant to subdivision (e) shall be multiplied by the quotient determined pursuant to subdivision (c). The resultant amount shall constitute the revenue limit inflation adjustment of the district.

(g) The revenue limit inflation adjustment for a district shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district. The sum shall be multiplied by the estimated foundation program units of average daily attendance of the budget year. The product shall be the revenue limit of the district for the budget year.

The average daily attendance for purposes of this subdivision shall include adults and other-than-adults resident students, but shall exclude residents of other districts, nondistrict residents, and nonresident students.

(h) Any district which has a revenue limit computed pursuant to subdivision (g) which is less than the foundation program computed for the budget year may increase its revenue limit computed pursuant to subdivision (g) to the lesser of the foundation program level of the district or the prior year revenue limit increased by 15 percent.

Notwithstanding the preceding paragraph if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the budget year foundation program, it shall be allowed to increase the revenue limit for fiscal years 1973-74, 1974-75, and 1975-76, by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily attendance of the prior year and the estimated Public Law 81-874 income per foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

(i) From the amount computed pursuant to subdivision (g) or (h), there shall be subtracted the basic and equalization aid to be received for the budget year and the amount of income to be received from the equalization offset tax pursuant to Section 84203.

(j) The amount determined pursuant to subdivision (i) shall be adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(k) From the amount computed pursuant to subdivision (j), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Sections 4147, 8329, 15250, 15742, 16090, 81180, 84006, 85100, and 85110 of the Education Code and Section 5302.5 of the Streets and Highways Code.

(l) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

The amount determined pursuant to subdivision (k) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars (\$100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district during the 1973-74 fiscal year, exclusive of taxes provided in Sections 4147, 8329, 15250, 15742, 16090, 81180, 84006, 85100, and 85110 of this code and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (h) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below thirty-five cents (\$.35).

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

85132. (a) For the 1974-75 fiscal year and each fiscal year thereafter, the maximum general purpose tax rate shall be computed pursuant to this section by the county superintendent of schools for each community college district in the county.

(b) The foundation program for 1974-75 fiscal years and subsequent fiscal years is as prescribed in Sections 84721 and 84810.

(c) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate inflated foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than 1, it shall be deemed to be 1.

(d) The foundation program per unit of average daily attendance for the prior year used as the dividend in subdivision (c) shall be as specified pursuant to Section 84721 for the appropriate fiscal year.

(e) For the fiscal years 1974-75, 1975-76, 1976-77, and fiscal years thereafter, the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year shall be determined for each district in accordance with Section 84721.

(f) The amount determined pursuant to subdivision (e) shall be multiplied by the quotient determined pursuant to subdivision (c). The resultant amount shall constitute the revenue limit inflation adjustment of the district.

(g) The revenue limit inflation adjustment for a district shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district. The sum shall be multiplied by the estimated foundation program units of average daily attendance of the budget year. The product shall be the revenue limit of the district for the budget year.

The average daily attendance for purposes of this subdivision shall include adults and other-than-adults resident students, but shall exclude residents of other districts, nondistrict residents, and nonresident students

(h) Any district which has a revenue limit computed pursuant to subdivision (g) which is less than the foundation program computed for the budget year may increase its revenue limit computed pursuant to subdivision (g) to the lesser of the foundation program level of the district or the prior year revenue limit increased by 15 percent.

Notwithstanding the preceding paragraph if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the budget year foundation program, it shall be allowed to increase the revenue limit for fiscal years 1973-74, 1974-75, and 1975-76, by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily attendance of the prior year and the estimated Public Law 81-874 income per foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

(i) From the amount computed pursuant to subdivision (g) or (h), there shall be subtracted the basic and equalization aid to be received for the budget year and the amount of income to be received from the equalization offset tax pursuant to Section 84203.

(j) The amount determined pursuant to subdivision (i) shall be adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(k) From the amount computed pursuant to subdivision (j), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Sections 4147, 8329, 15250, 15742, 16090, 81180, 84006, 85100, and 85110 of the Education Code and Section 5302.5 of the Streets and Highways Code.

(l) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

The amount determined pursuant to subdivision (k) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars (\$100) of such assessed valuation and shall be the maximum general purpose rate which may be levied in the district during the 1973-74 fiscal year, exclusive of taxes provided in Sections 4147, 8329, 15250, 15742, 16090, 81180, 84006, 85100, and 85110 of this code and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (h) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below thirty-five cents (\$.35).

85133. Commencing September 4, 1973, the revenue limit prescribed by Section 85132 may be exceeded upon approval of a majority of the electors of the district voting on a proposition to that effect pursuant to Section 85112. Such approval may be granted for any period of time, and shall be added to the budget year revenue limit per foundation program unit of average daily attendance of the district as determined in subdivision (h) of Section 85132 in computing the maximum general purpose tax rate for each year in

which the voted revenue limit increase is effective.

For the fiscal year following the last year in which the voted revenue limit increase is authorized, the amount of the voted revenue limit increase as it actually affected the revenue limit shall be subtracted from the revenue limit per foundation program unit of average daily attendance of the district as determined in subdivision (h) of Section 85132.

85133.5. The revenue limit per unit of average daily attendance of a community college district the boundaries of which are coterminous with those of a city and county shall be increased, or decreased, as the case may be, by the amount necessary to reflect or accommodate any change in the property tax revenues allocable to the district for public school purposes or any change in expenditures required of the district for public school purposes resulting from an election affecting such revenues or expenditures conducted pursuant to the charter of the city and county. Such revised revenue limit shall be in effect for the entire 1975-76 fiscal year.

85134. The unexpended proceeds of any permissive tax rate, the authorization for the levy and collection of which has been made inoperative by this article, shall be transferred to the general fund of the district on July 1, 1973. The consolidation of all tax rates previously permitted and now included to the extent needed within the total general fund rate does not preclude districts from expending funds for the purposes normally supported by such permissive restricted overrides in prior years.

85135. Commencing with 1973-74 fiscal year and thereafter, notwithstanding the provisions of Sections and 85132 68076, and for the purpose of crediting attendance for apportionments from the State School Fund and computing the revenue limit of a community college district, students lawfully admitted to the United States for permanent residence in accordance with all applicable laws of the United States and enrolled at a community college in a class in English and citizenship for foreigners as provided in Education Code Section 78462 shall be counted as resident students to the extent of their enrollment in such classes.

(Amended by Stats 1976, Ch. 1011 )

[ORIGINAL SECTION]

85135 Commencing with the 1973-74 fiscal year and thereafter, notwithstanding the provisions of Sections 8132 and 68076, and for the purpose of crediting attendance for apportionments from the State School Fund and computing the revenue limit of a community college district, students lawfully admitted to the United States for permanent residence in accordance with all applicable laws of the United States and enrolled at a community college in a class in English and citizenship for foreigners as provided in Education Code Section 78462 shall be counted as resident students to the extent of their enrollment in such classes.

85136. Commencing with the 1974-75 fiscal year, a community

college district shall reduce its revenue limit as authorized in Section 85132 by the estimated amount of open-space subvention to be received pursuant to Sections 16148 to 16153, inclusive, of the Government Code. The Chancellor of the California Community Colleges shall prescribe the method of estimating the open-space subvention to be received. This section shall be subject to the provisions of Section 85139.

85137. Each community college district shall increase its 1974-75 base revenue limit as authorized in Section 85132 by the amount of open-space subvention it received for the 1972-73 fiscal year pursuant to Sections 16148 to 16153, inclusive, of the Government Code.

85138. New community college districts without an operating tax rate for 1972-73 shall develop a base revenue figure for 1973-74, subject to approval of the chancellor's office and the Department of Finance. This base revenue shall include payment of any obligation incurred under the terms of interdistrict attendance agreements during that year. The 1973-74 base revenue amount shall be based on data from districts which are comparable on such factors as population density, projected assessed valuation per average daily attendance, enrollment and enrollment projections, and socioeconomic composition of the district. After 1973-74, the procedure for determining annual adjustments to the 1973-74 base revenue for such districts shall be the same as that for all other districts.

85139. Whenever the computations required by Section 85132 result, because of estimating errors, in a total revenue limit in an amount more or less than actual data would have produced for a community college district, the district's revenue limit for the succeeding fiscal year shall be reduced a like amount if the total produced was more, and shall be increased by such an amount if the total produced was less.

85140. Any proposal for the formation of a new community college district after July 1, 1973, shall include base revenue and tax rate estimates for the first full year of district operation. This base revenue estimate shall be an inherent part of the proposition at the election for the adoption or rejection of the plans and recommendations for the formation of the new community college district.

85141. (a) A community college district may add in Section 85132 for purposes of increasing its revenue limit for the budget year when it is anticipated that the second principal apportionment units of average daily attendance, excluding summer sessions and adults as defined in Section 78460 will be less than those of the preceding year, an estimated number of units of average daily attendance determined as follows:

- (1) When such reduction is less than 1 percent, no adjustment.
- (2) When such reduction is more than 1 percent but less than 2 percent, the allowable estimated units of average daily attendance

shall be the actual estimated units of average daily attendance increased by the fraction of a percent by which the percentage reduction of estimated units of average daily attendance exceeds 1 percent reduction.

(3) When such percentage estimated reduction is more than 2 percent, the allowable estimated units of average daily attendance shall be the actual estimated units of average daily attendance increased by half of the estimated numerical percentage reduction anticipated.

(b) This adjustment in estimated units of average daily attendance shall be allowed without requiring a reduction in the revenue limit of the district in the subsequent year which otherwise would be required pursuant to Section 85139. However, to the extent that actual data differ from the estimated units of average daily attendance used in this section, Section 85139 shall apply. Adjustments are on a year-to-year basis and are not cumulative.

## CHAPTER 8. EXPENDITURES AND APPROPRIATIONS

### Article 1. Control by Budgets

85200. The total amount budgeted as the proposed expenditure of the community college district for each major classification of district expenditures listed in the district budget forms prescribed by the board of governors shall be the maximum amount which may be expended for that classification of expenditures for the school year. Transfers may be made from the undistributed reserve to any expenditure classification or between expenditure classifications at any time by written resolution of the board of education of any district governed by a board of education, when filed with the county superintendent of schools and the county auditor, or by written resolution of the board of trustees of a community college district not governed by a board of education, when approved by the county superintendent of schools and filed with the county auditor. A resolution providing for the transfer from the undistributed reserve to any expenditure classification must be approved by a two-thirds vote of the members of the governing board; a resolution providing for the transfer between expenditure classifications must be approved by a majority of the members of the governing board. Nothing in this section shall be construed as affecting the provisions of Sections 85112 and 85114.

85201. At the close of any school year the county superintendent of schools may, with the consent of the governing board of a community college district previously given, make such transfers between the undistributed reserve and any expenditure classification or classifications or balance any expenditure classifications of the budget of the district for such school year as are necessary to permit the payment of obligations of the district incurred during such school year.

85202. Notwithstanding the provisions of Sections 85200 and 85210 or any provision of this code to the contrary, the governing board of any community college district may, by a majority vote of its membership, and with the approval of the county superintendent of schools, budget and use any unbudgeted income provided during the fiscal year from any source other than local property taxes or the State School Fund, provided that increases in apportionments from the State School Fund to be received during the fiscal year on account of the average daily attendance of students in a special program financed by categorical aid from the federal or other governmental source may be budgeted and used under the provisions of this section.

85203. The governing board of any district may direct that moneys held in any special or restricted fund or account may be temporarily transferred from one or more of these accounts or funds to the general fund of the district to be used for the payment of obligations of the general fund of the district. Such a transfer can be made not more than twice within a fiscal year from the same fund or account and only when the district will receive income sufficient to repay the amount transferred. The amount transferred shall be repaid to the special restricted fund or account either in the same or the following fiscal year, but in any case not more than 120 calendar days after the transfer. No more than 75 percent of the maximum of moneys held in any special or restricted fund or account during a current fiscal year may be transferred pursuant to the provisions of this section during that fiscal year.

## Article 2. Appropriation of Excess Income

85210. All income accruing to the community college district in excess of the amounts required to finance the total proposed expenditures, including transfers to other community college districts and funds, as shown in the budget of the district shall be added to the general reserve of the district, and shall not be available for appropriation by the district for the current fiscal year except by the following procedure. The governing board of the district shall, by formal action of the board, pass a resolution setting forth the need according to major classification of district expenditures to be met from any portion of the general reserve derived from assured income in excess of the total amount anticipated in the budget. The resolution shall be submitted to the county superintendent of schools. If the resolution is approved by the county superintendent of schools it shall, if it involves a sum in excess of one thousand dollars (\$1,000), be published in the same manner as the budget of the district concerned is published. Upon the approval of the resolution and, where its publication is required, following its publication, the amount named in the resolution shall be appropriated to the major classification or classifications from the general reserve as set forth in the resolution.

The county superintendent of schools shall approve any resolution for the appropriation of income provided from state or federal sources for emergency needs of the community college district to the extent that such income was not anticipated in the budget of the district.

Nothing in this section shall be construed to authorize the appropriation for current year purposes of income which would deplete the general reserve for the next succeeding fiscal year as provided in the budget of the district.

On the first day of July of each year, the general reserve together with unexpended balances of appropriations and income in excess of anticipated income for the preceding fiscal year shall be placed to the credit of the district, and the district shall include all money so credited in the balance shown in the budget for the ensuing fiscal year.

### Article 3. Temporary Transfer, County to District, Excess Balances

85220. Whenever prior to the receipt by a community college district of its state, county, city and county, or district funds, any district does not have sufficient money to its credit to meet current expenses of maintenance, the board of supervisors of the county or city and county shall order, and the auditor and treasurer of the county or city and county shall make a temporary transfer from any funds of the county or city and county not immediately needed to pay claims against them to the school fund of the district of the amount needed, not exceeding 85 percent of the amount of money which will accrue to the community college district during the fiscal year. Upon the making of the transfer the auditor shall immediately notify the superintendent of schools of the county, or city and county, of the amount transferred. Each transfer of funds requested under this section shall be granted in order of receipt by the board of supervisors, regardless of whether sufficient county funds are available for transfer to meet pending or anticipated requests of community college districts.

The funds transferred under this section to the credit of a community college district shall be retransferred by the auditor and treasurer to the fund from which they were taken from the first moneys accruing to the district or county school service fund and before any other obligation of the district is paid from the money accruing.

85221. The county superintendent of schools of each county with the approval of the county board of education, may make temporary transfers to a community college district which does not have sufficient money to its credit to meet current operating expenses from the county school service fund, in such amounts and at such times as he deems necessary. Such transfers shall not exceed 85 percent of the amount of money accruing to the district at the time

of transfer. The amounts so transferred shall be repaid to the county school service fund prior to June 30 of the current year from any funds subsequently received by the district.

85222. The county superintendent of schools, with the approval of the county board of education, may make an apportionment to a community college district from the county school service fund conditional upon the repayment to the fund during the next succeeding fiscal year of the amount apportioned to the district and shall, during the next succeeding fiscal year, transfer the amount of such apportionment from the general fund of the district to the county school service fund.

85223. Upon the request of the county board of education on behalf of a newly organized community college district, and upon the order of the county board of supervisors of the county or city and county, the auditor and treasurer of the county or city and county shall make a temporary transfer from any funds of the county or city and county not immediately needed to pay claims against them to the general fund of the newly organized community college district for the purpose of meeting the current expense of the district until such time as the district receives its first state apportionments or district tax funds. Upon the making of the transfer, the auditor shall immediately notify the superintendent of schools of the county or the city and county of the amount transferred.

The funds transferred under this section to the general fund of a newly organized district shall be retransferred by the auditor and the treasurer to the fund from which they were taken from the first moneys accruing to the district after it becomes effective for all purposes pursuant to Section 4000 and before any other obligation of the district is paid from the money accruing.

#### Article 4. Requisitions and Warrants

85230. Except as otherwise provided in this code, money shall be paid from the funds of any community college district for the payment of the expenses of the district, only as provided in this article.

85231. All payments from the funds of a community college district shall be made by written order of the governing board of the district. Orders shall be on forms prescribed by the county superintendent of schools. Forms shall be printed and furnished by the board of supervisors.

85232. Each order drawn on the funds of a community college district shall be signed by at least a majority of the members of the governing board of the district, or by a person or persons authorized by the governing board to sign orders in its name. No person other than an officer or employee of the district shall be authorized to sign orders.

85233. The governing board of each community college district shall be responsible for filing or causing to be filed with the county

superintendent of schools the verified signature of each person, including members of the governing board, authorized to sign orders in its name. No order on the funds of any district shall be approved by the county superintendent of schools unless the signatures are on file in his office and he is satisfied that the signatures on the order are those of persons authorized to sign the order.

85234. Each order drawn against the funds of a community college district shall be numbered and shall state: (a) the particular fund or funds of the district against which it is drawn, (b) the amount of the payment to be made from each fund, and (c) the rate of salary and the period of service of any employee of the district for whom an order is issued for payment of salary or wages. If drawn for any purpose other than the payment of salaries or wages of district employees, the order shall be accompanied by an itemized bill showing the separate items and the price of each.

85235. Each order drawn against the funds of a community college district shall be transmitted to the county superintendent of schools, and, if approved and signed by him shall become a requisition on the county auditor.

85236. The county superintendent of schools shall examine each order on community college district funds transmitted to him, in the order in which it is received in his office. If it appears that the order is properly drawn for the payment of legally authorized expenses against the proper funds of the district, and that there are sufficient moneys in the fund or funds against which the order is drawn to pay it, he shall endorse upon it "examined and approved," and shall, in attestation thereof, affix his signature and number and date the requisition and transmit it directly to the county auditor, in the order in which the order is received in his office.

85237. If at any time during a fiscal year the county superintendent of schools concludes that the expenditures of a community college district within his jurisdiction are likely to exceed the anticipated income of the district for that fiscal year, he shall notify such district in writing of such conclusion and he may conduct a comprehensive review of the financial and budgetary conditions of the district. The superintendent shall report his findings and recommendation to the governing board of the district and may include recommendations of methods by which the budgeted expenditures for the balance of the fiscal year may be brought into balance with the revenue of the district. Such report shall be made to the governing board at a public meeting of the governing board. The governing board shall, no later than 15 days after receipt of such report, notify the county superintendent of schools of its proposed actions on his recommendations.

85238. If the order is disapproved by the county superintendent of schools, it shall be returned to the governing board of the community college district, except as otherwise provided in this code for the registration of warrants, with a statement of his reasons for disapproving the order.

85239. The county auditor shall examine each order and requisition on community college district funds transmitted to him by the county superintendent of schools. If he allows the order and requisition, he shall endorse thereon "examined and allowed," and shall date, number, and sign it, whereupon it shall become a warrant on the county treasurer. The auditor shall detach any bill attached to the requisition, and shall number the bill, giving it the same number which he gives the warrant, and file it in his office. He shall thereupon return the order, requisition, and warrant to the county superintendent of schools who shall transmit it to the governing board of the district for issuance to the payee or to his order.

Any requisition of the county superintendent of schools, whether based upon written order of the governing board of a school district or authorized by law, shall constitute full authority for the signature for allowance thereof by the county auditor as a warrant on the county treasurer, and no other authority shall be necessary or required for such action by the county auditor.

"Requisition," as used in this section, includes any order or demand signed by the county superintendent of schools directing the county auditor to draw his warrant on the county treasurer.

85240. In lieu of drawing his warrant as provided in Section 85239 the county auditor may, with the approval of the governing board of the community college district, endorse, date, and number the order and requisition and may prepare a separate warrant on the county treasurer for the same amount as the order and requisition. The warrant shall show that it had been drawn on the order of a community college district naming the community college district and shall show, the payee, date of issue, as well as other information deemed appropriate by the auditor.

The auditor shall draw such separate warrant by signing it and no other signature shall be required. Thereupon the auditor shall transmit the separate warrant to the county superintendent of schools who shall transmit it to the governing board of the district for issuance to the payee or to his order, or with the approval of the governing board of the district, shall transmit it to the payee.

The order and requisition may direct the transfer of the amount of the separate warrant from the funds of the district to a clearing fund in the county treasury (to be known as the schools commercial revolving fund), to the end that separate warrants for all districts may be drawn against a single revolving fund.

85241. The governing board of any community college district may, with the approval of the county auditor and county treasurer, in lieu of issuing single orders for the payment of the salary or wages of each employee, issue payroll orders, on forms prescribed by the county superintendent of schools and approved by the Chancellor of the California Community Colleges, for the payment of the salaries or wages of two or more employees. Payroll orders may be drawn only for the payment of salaries and wages of employees, and shall constitute requisitions on the county auditor and warrants on the

county treasurer when approved and signed by the county superintendent of schools and allowed and signed by the county auditor, respectively.

85242. Each payroll order drawn pursuant to this article shall be drawn, approved, and issued in the same manner and shall contain the same minimum content as prescribed for single orders. Each payroll order shall list the names of all employees in whose favor the order is drawn and shall state the amount of money due each.

85243. The superintendent of schools of each county shall keep, open to the inspection of the public, a register of warrants, showing the fund upon which the requisitions have been drawn, the number, in whose favor, and for what purpose they were drawn.

85244. Orders for the payment of wages and payroll orders for the payment of wages of employees employed full time in positions not requiring certification qualifications shall be drawn twice during each calendar month on days designated in advance by the governing board of each community college district to which this section is made applicable. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

The governing board of each community college district which has an average daily attendance of 5,000 or more, and the governing board of each district with an average daily attendance of less than 5,000 in a county with a population in excess of 4,000,000 persons as determined by the 1960 federal census, shall make the provisions of this section applicable to the board, whenever a majority of the employees of the district employed full time in positions not requiring certification qualifications petition the board in writing to do so.

The governing board of a community college district which has an average daily attendance of less than 5,000, other than such a school district situated in a county with a population in excess of 4,000,000 persons as determined by the 1960 federal census, may, on the petition in writing of a majority of the employees of the district employed full time in positions not requiring certification qualifications, make the provisions of this section applicable to the board.

## Article 5. Warrants

85260. In any county, the county superintendent of schools, with the approval of the board of governors, the county board of education and the county auditor, may prescribe a payroll procedure, to be followed by designated community college districts in the county, under which the community college district governing boards, by use of payroll orders, shall authorize and direct the county

superintendent of schools and the county auditor to draw separate payroll warrants in the names of the individual district employees for the respective amounts set forth therein to the end that each employee may be furnished with a statement of the amount earned and an itemization of the amounts withheld therefrom under requirements of the law or by direction of the employee.

Such payroll warrants shall show the closing date of the pay period for which issued and the date of issue and a statement that it is drawn by order of the governing board of the district and shall bear the signature of the county auditor.

To obtain the advantage of a uniform pay period and pay date within districts, the payroll procedure may specify the ending date of the pay period and, notwithstanding Sections 87814, 87821, and 85244, the date of issue for payroll warrants, except that the issue date shall be on or before the 10th calendar day following the end of the pay period. The payroll procedure may provide for salary payments, including salary advances, more frequently than once a month.

The payroll procedure may provide for payroll orders authorizing salary payments to individual employees on a continuing basis until such time as notifications of changes or adjustments are submitted by the community college districts, provided that an itemized listing of payments made under this procedure is furnished to the community college district on or before the date of issue of the payroll warrants.

The payroll order may direct the transfer from the districts' funds to a clearing fund in the county treasury, to be known as the schools payroll revolving fund, of the total of the amount of the payroll warrants to be issued under the order to the end that payroll warrants for all districts may be drawn against a single revolving fund. The payroll order may further direct the transfer from the districts' funds of the totals of the various deductions set forth therein to the trust funds in the county treasury entitled to receive credit for them and may further direct the proper disbursement of such trust amounts.

When the payroll procedure provides for payment of salary once each month the payment shall be made on the last working day of the month as required by Section 88165.

85261. With the approval of the board of governors, the governing board of a community college district, may cause to be drawn all warrants on the county treasurer against all the funds, except debt service, of the district in the county treasury in the payment of the expenses of the district. The warrants shall be issued by a person designated as the district auditor or district disbursing officer for the community college district on the county treasurer in favor of the persons entitled thereto in payment of all claims chargeable against the district which have been legally examined, allowed, and ordered paid by the governing board. The district auditor shall issue warrants on the county treasurer for all debts and demands against the district when the amounts are fixed by law. The form of the warrant shall be as prescribed by the governing board

and approved by the county auditor or county treasurer having jurisdiction.

Notwithstanding Section 85231, the cost of printing the warrants shall be borne by the district.

No county officer shall be responsible for producing reports, statements, and other data relating to or based on these payments of the expenses of the districts. Those districts issuing warrants as provided by this section shall provide the county superintendent of schools, in the form prescribed by him, with the data necessary to make retirement reports and other reports required of him by law. All warrants, vouchers, and supporting documents shall be kept by the districts that draw their own warrants.

Notwithstanding Section 27005 of the Government Code, or any other section requiring orders for warrants or warrants to be signed by the county superintendent of schools or the county auditor, or both, the county treasurer shall pay the warrant, if money is available.

Notwithstanding Section 84000, except for assessing and tax collecting, the county auditor and the county treasurer may charge those districts that draw their own warrants for the cost of all fiscal services.

The person authorized by the governing board of the district to issue warrants pursuant to this section shall execute an official bond in an amount fixed by the governing board conditioned upon the faithful performance of his duties under this section. A county superintendent of schools or a county auditor shall not be liable under the terms of their bonds or otherwise for any warrant issued pursuant to this section. It is not intended that this provision shall be applied so as to impair the obligation of any contract in the bond of such officer in effect on the effective date of this section.

A listing of the warrants issued under this section by each community college district shall be forwarded to the county auditor having jurisdiction, upon his request, and to the county superintendent of schools having jurisdiction over the district on the same day warrants are issued. The listing, which may be magnetic tape, punched cards, or in other form, shall report, among other things, the warrant number, date of the warrant, amount of the warrant, the name of the payee, and the fund on which drawn.

The form and content of the warrant listing shall be as prescribed by the governing board and approved by the county auditor having jurisdiction.

Each community college district, which issues warrants pursuant to this section shall furnish monthly to the county superintendent of schools and the county auditor of the county of jurisdiction, upon his request, a statement showing for the current fiscal year to date, for each required expenditure classification, the amount budgeted, actual expenditures, encumbrances and unencumbered balances.

In order to obtain the approval of the board of governors, a community college district shall file a written application with the

county superintendent of schools of jurisdiction on forms which the board of governors shall prescribe. Upon receipt of an application from the district, the county superintendent of schools shall cause a survey to be made of the district's accounting controls by an independent certified public accountant or public accountant in accordance with standards prescribed by the Department of Finance. The certified public accountant or public accountant shall report his findings and recommendations to the county superintendent, county auditor, and to the applicant district. The county superintendent shall forward the district's application, together with his recommendations and the recommendations of the county auditor and the report of survey, to the board of governors who shall approve or disapprove the application. The board of governors shall approve the application only if he finds the accounting controls of the district are adequate. If the board of governors determines that such controls are inadequate, he shall disapprove the application. The county superintendent of schools shall be reimbursed from the district funds for all costs incident to the accounting controls survey made pursuant to the district's application.

When approved by the board of governors, the issuance of warrants pursuant to this section shall be effective at the beginning of the fiscal year, provided that the approval had been made prior to the preceding first day of January. If disapproved, the board of governors and the county superintendent of schools shall state the specific steps which must be taken by the community college district in order to receive approval. If at any time the county superintendent of schools determines that the accounting controls of the district have become inadequate, he may recommend to the board of governors that the approval be revoked effective at the first of the fiscal year next following.

85262. The provisions of Article 3 (commencing with Section 29850) of Chapter 5 of Division 3 of Title 3 of the Government Code shall be applicable to any community college district, authorized to issue warrants pursuant to Section 85261 of this code; except that whenever any reference is made in said Article 3 to (1) the county auditor, or (2) the general fund of the county, such reference shall be deemed, for purposes of this section, to be to (1) the person authorized to issue warrants pursuant to Section 85261 of the Education Code and (2) the general fund of the district, respectively.

85263. (a) With the approval of the Board of Governors of the California Community Colleges, the governing board of any community college district may cause to be drawn all warrants on the county treasurer against all the funds of the district in the county treasury, except debt service, in payment of the expenses of the district. The warrants shall be issued on the county treasurer, by a person authorized by the governing board of the community college district, in favor of the persons entitled thereto in payment of all legal

claims chargeable against the district which have been examined, allowed, and ordered paid by the governing board. The form of the warrant shall be as prescribed by the governing board and approved by the county auditor or county treasurer having jurisdiction. Notwithstanding Section 42631 of the Education Code, the cost of printing the warrants shall be borne by the community college district.

(b) The person so authorized by the district governing board shall issue warrants on the county treasurer for all debts and demands against the district when the amounts are fixed by law.

(c) Notwithstanding Section 27005 of the Government Code, or any other section requiring orders for warrants or warrants to be signed by the county superintendent of schools or the county auditor, or both, the county treasurer shall pay the warrant issued by the community college district if money is available.

(d) No county officer shall be responsible for producing reports, statements, or other data relating to or based on payments of the expenses of the community college districts. Community college districts issuing warrants as authorized by this section shall provide the county superintendent of schools, in a form approved by him, with the data necessary to make retirement reports and other reports required of him by law. All warrants, vouchers, and supporting documents shall be kept by the community college districts which draw their own warrants.

(e) Notwithstanding Section 41000 of the Education Code, except for assessing and tax collecting, the county auditor and the county treasurer may charge those community college districts which draw their own warrants a fee as reimbursement for the cost of those fiscal services rendered to the districts.

(f) The person authorized by the governing board of the community college district to issue warrants pursuant to this section shall execute an official bond in an amount fixed by the governing board conditioned upon the faithful performance of duties under this section. A county superintendent of schools or a county auditor shall not be liable under the terms of their bonds or otherwise for any warrant issued pursuant to this section. It is not intended that this provision shall be applied so as to impair the obligation of any contract in the bond of such officer in effect on the effective date of this section.

(g) A listing of the warrants issued under this section by each community college district shall be forwarded to the county auditor having jurisdiction, upon his request, on the same day warrants are issued. The listing, which may be on magnetic tape, punched cards, or in any other form, shall report, among other things, the warrant number, the date of the warrant, the amount of the warrant, the name of the payee, and the fund on which drawn. The form and content of the warrant listing shall be as prescribed by the community college governing board and approved by the county auditor having jurisdiction.

Each community college district which issues warrants pursuant to this section shall furnish monthly to the county superintendent of schools, upon his request, and to the county auditor of the county of jurisdiction, upon his request, a statement showing for the current fiscal year to date, for each required expenditure classification, the amount budgeted, actual expenditures, encumbrances and unencumbered balances.

(h) In order to obtain the approval of the Board of Governors of the California Community Colleges, the governing board of a community college district shall file a written application with the board of governors on a form which the board of governors shall prescribe. Information copies of the application shall be sent to the county superintendent of schools, the county treasurer, and the county auditor of the county having jurisdiction in which the community college district is located, at the same time the application is filed with the board of governors.

(i) Upon receipt of an application from the district, the Board of Governors of the California Community Colleges shall cause a survey to be made of the district's accounting controls by an independent certified public accountant or public accountant in accordance with standards prescribed by the Department of Finance. The certified public accountant or public accountant shall report the findings and recommendations of his survey to the Board of Governors of the California Community Colleges, the county superintendent of schools, the county auditor, the county treasurer, and the applicant district. The cost of such survey and report shall be a legal expense of the applicant district.

(j) The county superintendent of schools, the county auditor, the county treasurer, and the applicant district may forward their comments on the accountant's report of survey to the board of governors, who shall approve or disapprove the application within a reasonable period of time. The board of governors shall approve such application only if it finds the accounting controls of the district are adequate. If the board of governors determines that such controls are inadequate, it shall disapprove the application.

(k) If the district's application is approved by the board of governors, a survey of the district's accounting controls shall henceforth be included in each annual audit review of the district's records and accounts as required by Section 41020.

(l) When approved by the Board of Governors of the California Community Colleges, the issuance of warrants pursuant to this section shall be effective at the beginning of the next fiscal year, provided that the approval had been made prior to the preceding first day of January.

(m) If the application of the district is not approved, the Board of Governors of the California Community Colleges shall state the specific steps which must be taken by the community college district in order to receive approval. If at any time the board of governors determines, from the annual audit review required in subdivision

(k), that the accounting controls of the district have become inadequate, the board of governors may revoke its approval effective at the beginning of the fiscal year next following such determination.

85264. The provisions of Article 3 (commencing with Section 29850) of Chapter 5 of Division 3 of Title 3 of the Government Code shall be applicable to any community college district authorized to issue warrants pursuant to Section 85263; except that whenever any reference is made in said Article 3 to (1) the county auditor, or (2) the general fund of the county, such reference shall be deemed, for purposes of this section, to be to (1) the person authorized by the community college district governing board to issue warrants pursuant to Section 85263, and (2) the general fund of the community college district, respectively.

#### Article 6. Void Warrants

85270. Unless otherwise provided by county ordinance, any school warrant not presented to the county treasurer within six months after it was issued is void and any order issued by the governing board of a community college district, but not approved by the county superintendent of schools for want of funds, is void if not presented to the county superintendent of schools within two years after notice has been given that the order will be approved on presentation. The county auditor shall each month inform the county superintendent of schools of warrants which have become void during the preceding month and the county superintendent of schools shall transmit such information to the governing board of the district together with information as to orders which have become void.

Any time within two years from the date on which the original warrant became void, the payee, assignee, or the legal representative or heir of a deceased payee of any warrant which is void as provided in this section may present such warrant to the governing board of the community college district which issued the order on which the warrant was drawn, or declare by affidavit that such warrant has been lost or destroyed, and the governing board may adopt an order instructing the county auditor to draw a new warrant in favor of the payee in the same amount as the original warrant, or the governing board may by resolution authorize the county auditor to draw new warrants within the limitations prescribed by the resolution without prior individual order of the governing board, provided the limitations prescribed by this section have been complied with. Any such new warrant shall be subject to the same limitations as the original warrant which it replaces.

85271. Any warrant drawn on the funds of a district retirement system and issued to the claimant thereof but not presented for payment to the county treasurer within two years after it was issued is void and the proceeds of such warrants shall revert to and become a part of the contributions of the district and shall be applied to

reduce the cost to the taxpayers of the district maintaining the retirement system. The county auditor shall each month inform the county superintendent of schools of warrants which have become void during the preceding month, and the county superintendent of schools shall transmit such information to the governing board of the community college district.

85272. The county superintendent of schools shall keep a record of all orders, or warrants which have become void.

#### Article 7. Registration of Orders, Issuance of Warrants

85280. When any order against the funds of a community college district is presented to the county superintendent of schools, and the order constitutes a valid claim against the funds of the district, and moneys are not available in the funds of the district from which to pay the order, he shall endorse on the order the words "Not approved for want of funds" and shall register the order in the records of his office.

85281. The county superintendent of schools shall number and date the registered order and shall transmit the registered order to the governing board of the community college district which drew the order, and it shall deliver the registered order to the payee or his order. From the date of registration the registered order shall bear interest at the rate of 5 percent per annum until the date upon which notice is given, pursuant to this article, that the county superintendent of schools is ready to approve the registered order.

85282. Whenever moneys are available for the payment of the registered order the county superintendent of schools shall give notice, in a newspaper published in the county, or if there is no newspaper, by written notice posted at the courthouse, stating that he is ready to approve the order. The notice may list any number of registered orders of one or more districts for the payment of which moneys are available, giving the name or names of the district or districts and listing the registered orders in the order of registration for each district.

85283. At the time of giving the notice the county superintendent of schools shall set aside in the funds of each district for a period of 60 days the amount necessary for the payment of the registered orders of the district listed in the notice. If any registered order is not presented to the county superintendent of schools for payment within 60 days after the notice has been given, and moneys are not available to pay the registered order at the time of presentation, it shall not be approved until money becomes available for that purpose and notice is again given that the county superintendent of schools is ready to pay it.

85284. The county superintendent of schools shall approve the registered orders of each district, and sign them as requisitions on the county auditor, in the order of their presentation. He shall enter on each the amount of interest due and the total amount, including

principal and interest, payable. Each approved registered order shall thereupon be governed by the procedure established in this code relative to payments from community college district funds.

85285. As an alternative to the method provided in Section 85284, when any corporation, firm, or person presents two or more registered orders for payment at the same time, registered on the same date, and issued against the funds of the same district, the registered orders may be approved, allowed, and consecutively numbered by the county superintendent of schools and the county auditor as requisitions and warrants on the funds of the district, and a special interest requisition may be issued by the county superintendent of schools against the funds of the district for the total amount of the interest payable on the registered orders.

85286. The special interest requisition shall bear upon its face substantially the following notation: "In full payment of interest due on warrants numbered \_\_\_\_\_ to \_\_\_\_\_, inclusive, of the \_\_\_\_\_ Community College District."

85287. The special interest requisition shall be numbered by the county superintendent of schools and county auditor, being given the number immediately succeeding the number assigned to the last of the requisitions and warrants referred to in Section 85285.

85288. The county superintendent of schools shall report to the county treasurer and the county auditor within 10 days after the end of each month the amount of the interest computed pursuant to this article. The report shall show each district for which interest has been computed, the numbers of the registered orders for which the interest is to be paid, and the total amount of the interest charged to each district. He shall also, upon transmitting to the governing board of a community college district registered orders which have been approved and allowed as warrants against the funds of the district, report in writing to the clerk or secretary of the district the amount of interest computed on the registered orders and the numbers of the registered orders for which the interest is to be paid.

#### Article 8. Optional Method of Registering Warrants

85300. In lieu of the method provided in Article 7 (commencing with Section 85280) of this chapter, inclusive, for the registration of community college district orders, the provisions of this article may be followed upon resolution adopted by the county board of supervisors of any county.

85301. When any order on community college district funds is received by the county superintendent of schools and there is insufficient money in the fund or funds against which the order is drawn to pay the order in full, the county superintendent shall endorse on the order "to be registered for lack of sufficient funds," sign, date, and number it as a requisition on the county auditor, and transmit the requisition to the county auditor. The county auditor shall endorse on the order "examined and allowed," sign, date, and

number it as a warrant on the county treasurer, and return the warrant to the county superintendent of schools who shall transmit it to the governing board of the community college district for issuance to the payee or to his order.

85302. When the warrant is presented to the county treasurer for payment, he shall endorse, register, advertise, and pay it, with interest at the rate of 5 percent per annum, in the manner prescribed, as nearly as may be, for county warrants in Sections 29821 to 29824, inclusive, and Sections 29826 and 29827 of the Government Code.

85303. If the warrants are not again presented for payment within 60 days from the time the notice provided for in Section 29823 of the Government Code is given, the fund set aside for the payment of the warrants shall be applied by the treasurer to the payment of unpaid warrants next in order of registry.

85304. Within 10 days after the end of each month, the county auditor shall report to the superintendent of schools the amount of interest added to registered warrants and paid during the preceding month. The report shall show each district to whose registered warrants, paid during the month covered by the report, interest was added and the amount of the interest for the district. The superintendent of schools shall immediately report, in writing, to the clerk or secretary of each district for which interest was paid, the amount of the interest paid for the district.

## CHAPTER 9. REVOLVING FUNDS

### Article 1. Revolving Cash Fund

85400. The governing board of a community college district may, with the consent of the county superintendent of schools, establish a revolving cash fund for the use of the chief accounting officer of the district, by adopting a resolution setting forth the necessity for the revolving cash fund, the officer for whom and the purposes for which the revolving cash fund shall be available, and the amount of the fund. The purposes for which the revolving cash fund shall be available shall include the purposes specified in Section 88166. The amount of the fund shall not be more than 2 percent of the district's estimated expenditures for the current fiscal year and shall not in any event exceed twenty-five thousand dollars (\$25,000) for any community college district. Three certified copies of the resolution shall be transmitted to the county superintendent of schools. If he approves the establishment of the fund, the county superintendent shall endorse his consent on the resolution and return one copy to the governing body of the district, and transmit one copy to the county auditor.

85401. (a) Except as otherwise provided in subdivision (b) of this section, the officer for whose use the revolving cash fund is created shall file with the governing body of the district a bond in

favor of the district, executed by him as principal and by a surety company authorized under the laws of the state to execute bonds as surety, in an amount not less than double the amount of the revolving cash fund. The bond shall be conditioned upon the faithful administration of the revolving cash fund and upon the willingness and ability of the principal to account for and pay over the revolving cash fund at any time upon the demand of the governing board of the district. The premium on the bond shall be a legal charge against the district, payable from the funds of the district.

(b) In lieu of the bond required by subdivision (a) of this section, an officer may be bonded as provided by Section 84041.

85402. No bond shall be required when the revolving cash fund does not at any time exceed twenty-five dollars (\$25).

85403. The governing board of the community college district shall draw an order, on the form and in the manner required by law for order, requisition, and warrant for the payment of school moneys, payable from the county or special fund of the district, in favor of the officer for whose use the revolving cash fund is created, for the amount of the revolving cash fund, and transmit the order to the county superintendent of schools accompanied by the bond and a certified copy of the resolution. Upon his approving the order, the county superintendent of schools shall detach and retain the bond. Upon his allowing and signing the warrant, the county auditor shall detach and retain the certified copy of the resolution and the county treasurer shall pay the warrant.

85404. The person entrusted with the revolving fund shall not be authorized to expend any portion of the fund except for services or material, the securing or purchasing of which is a legal charge against the district, and no expenditure shall be made unless a receipt is obtained therefor setting forth the date and the purpose of the expenditure and the amount expended. The governing board of a community college district may establish an account for the revolving fund in one or more banks. The account shall be known as "The Revolving Fund Account of (insert name of district) District" and shall be established in the custody of the officer for whose use the revolving cash fund is created who shall be responsible for the payment into the account or accounts of all moneys required to be reimbursed into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes. A bill shall be presented to the district monthly, or oftener if necessary, for the reimbursement of the fund in the same manner as other bills are presented. Bills shall be supported by the receipts required. All sums received in payment of the bills shall be returned to the revolving cash fund or bank account or accounts and each person entrusted with the revolving cash fund shall, upon demand of the county superintendent of schools or the county auditor or of the governing board of the district, give an account of the fund.

85405. The governing board of the district may at any time

reduce or discontinue any revolving cash fund established by its order. Whenever the fund is ordered reduced the person using it shall immediately return to the county treasury the amount necessary to reduce the fund, as ordered by the board. If the fund is discontinued, the person using it shall immediately refund the amount thereof to the county treasurer. In either event a reasonable time shall be allowed the person to reimburse himself by bills presented to the community college district for expenditures legally made from the fund.

## Article 2. Alternative Revolving Cash Fund

85410. In addition to establishing or maintaining a revolving cash fund under the provisions of Article 1 (commencing with Section 85400) of this chapter, the governing board of any community college district having an average daily attendance of 20,000 or more may, by resolution, establish revolving cash funds for use by presidents and other administrative officials designated by the governing board and acting in accordance with regulations prescribed by the governing board, for services or matériel and for the purposes specified in Section 83166. The resolution shall set forth the necessity for the revolving cash funds, the presidents and other administrative officials of the community college district designated by the governing board, the purposes for which the revolving cash funds shall be made available, and the amount of such funds. The total amount of such funds for each district shall not exceed 3 percent of the current year's instructional supply budget.

The governing board of a community college district may establish a checking account for the revolving fund in one or more banks. The account shall be established in the custody of the principal or other administrative official designated by the governing board for whose use the revolving cash fund is created. The principal or administrative official in whose name the revolving cash fund is created shall be responsible for all expenditures therefrom, subject to such regulations as the governing board prescribes. The governing board shall provide for an audit of such funds on a regular basis.

The revolving cash fund for supplies shall be subject to the bonding provisions of Section 85401.

## Article 3. Prepayment Funds

85420. The governing board of any community college district may establish a revolving cash fund in any bank, whose deposits are insured by the Federal Deposit Insurance Corporation, for the purpose of paying bills as prescribed in Section 85421. The provisions of Article 1 (commencing with Section 85400) of this chapter shall not apply to the revolving cash fund established pursuant to this article.

The governing board may appropriate money from the county or

joint school district fund in the county treasury belonging to the community college district to establish the revolving cash fund.

The maximum amount in the revolving cash fund shall be as follows:

(a) In a community college district with 20,000 or more units of average daily attendance, ten thousand dollars (\$10,000).

(b) In a community college district with 5,000 or more, but less than 20,000 units of average daily attendance, five thousand dollars (\$5,000).

(c) In a community college district with 500 or more, but less than 5,000 units of average daily attendance, two thousand five hundred dollars (\$2,500).

(d) In a community college district with less than 500 units of average daily attendance, one thousand dollars (\$1,000).

85421. The governing board of any community college district which has established a revolving cash fund pursuant to Section 85420 shall designate a person or persons who shall be authorized to make immediate payments by check, drawn on the revolving cash fund, for purchases in an amount of one hundred dollars (\$100) or less, including tax and freight, or at the time of preparing the order for such purposes to make such check payable to the vendor permitting him to fill in the amount to be paid upon shipment of the purchases, such check to state on its face that it is not valid for more than one hundred dollars (\$100).

A monthly list of such payments shall be submitted to the governing board by the designated person or persons for approval.

Upon approval of such expenditures by the governing board, the clerk of the governing board shall draw an order for the replenishment of the revolving cash fund from the county or joint school district fund in the county treasury belonging to the community college district. Such order shall be treated in the same manner as prescribed for payment of other claims against the funds of the district.

Any person who issues a check drawn on the revolving cash fund shall be personally liable for the amount of the check only if the expenditure is in violation of rules and regulations established by the governing board with respect to the revolving cash fund.

#### Article 4. Warehouse Stock Revolving Funds

85430. The governing board of any community college district may, if the district maintains a stock of merchandise for school use, establish a revolving fund for budget control and stock accounting purposes, by adopting a resolution setting forth the necessity for the revolving fund, the purpose for which it shall be used and the amount thereof. Three certified copies of the resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of the fund, shall endorse his consent upon the resolution, return one copy to the governing board of the community

college district and transmit one copy to the county auditor.

The governing boards of two or more community college districts of any type may, if the districts maintain a stock of merchandise for school use, establish a common revolving fund for budget control and stock accounting purposes, by adopting a resolution of each district setting forth the necessity for the revolving fund, the purpose for which it shall be used and the amount thereof. Three certified copies of the resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of the fund, shall endorse his consent upon the resolution, return one copy to the governing board of the community college districts and transmit one copy to the county auditor.

85431. The amount of the revolving fund shall not exceed an amount from the general fund of the district equal to the average daily attendance of the district for the next preceding year multiplied by fifteen dollars (\$15) plus such amounts as the governing board of the district may, in its discretion, appropriate from other funds of the district, including building funds, and shall be determined as follows: The inventory of stores on hand including the cost of receiving and storing such stores of the community college district at the time of the establishment of the fund, which stores and costs have been paid for from district funds and reported to the county superintendent, plus whatever sum the governing board in its discretion may appropriate from the various funds of the district, including building funds, not to exceed an aggregate sum determined as above, including stores on hand, costs of receiving and storing such stores and designated appropriations, shall be the amount to constitute the revolving fund of the district.

Where a common revolving fund is established for two or more community college districts, the amount of the revolving fund shall not exceed an amount from the general funds of the districts equal to the average daily attendance of the districts for the next preceding year multiplied by fifteen dollars (\$15) plus such amounts as the governing boards of the districts, in their discretion, appropriate from other funds of the districts, including building funds, and shall be determined as follows: The inventory of stores on hand including the cost of receiving and storing such stores of each district at the time of the establishment of the fund which stores and costs have been paid for from district funds and reported to the county superintendent, plus whatever sums the governing board of each district in its discretion may appropriate from the various funds of the district, including the building fund, not to exceed an aggregate sum as determined above, including stores on hand, costs of receiving and storing such stores and designated appropriations, shall be the amount to constitute the revolving fund, and each district shall retain its equity in the common fund.

The amount of any revolving fund once established as herein prescribed may be increased to an amount from general funds not in excess of the average daily attendance of the next preceding year

multiplied by fifteen dollars (\$15) plus such amounts as the governing board, in its discretion, may appropriate from other funds of the district, including building funds, or decreased, in the discretion of the governing board, as the needs of the district may require, in the same manner and by the same procedure as herein prescribed for establishment of such fund.

Amounts expended from the revolving fund are restored thereto through payments into the revolving fund by warrants drawn on the various funds of the districts, including building funds, for shipments from stores for the use of the districts. The warrants shall be made payable to the "revolving fund of \_\_\_\_\_." (Here insert name or names of the community college district or community college districts establishing the fund.)

85432. The revolving fund, when established, shall be used for the purchase of stores to be placed in stock and may be used for the payment of costs of receiving, storing, and delivering stores. Purchases shall be made in the manner prescribed by law. Nothing contained in this article shall be construed as repealing any other provisions of law relating to district funds.

85433. The revolving fund shall be kept by the county treasurer as a separate fund and shall be subject to such uses only as are provided by law.

85434. The warehouse is a school plant and the costs of maintaining and operating it is a legal charge of the community college district, and shall be audited and paid as other claims against the funds of the district.

#### Article 5. Special Reserve Fund

85440. The governing board of a community college district may provide for the accumulation over a period of school years of funds for capital outlay purposes and salaries of district employees whose work is directly related to projects financed by such funds, derived from the receipt of taxes levied for the district and from other sources including balances, and not required to be used for other than capital outlay purposes.

85441. Upon the filing of identical copies of a resolution of the governing board with the superintendent of schools, auditor, and treasurer of the county specifying the purpose or purposes of a special reserve fund, the fund shall be established for such purpose or purposes. From time to time thereafter, the governing board may file identical copies of resolutions specifying additional purposes of the fund or withdrawing any purpose previously designated. The auditor and treasurer shall transfer from the general fund to the special reserve fund of the district such amounts as may be specified by the governing board during the fiscal year.

85442. The governing board may expend the money in the fund for the purpose or purposes specified in any resolution filed pursuant to Section 85441 unless the purpose has been withdrawn pursuant to that section.

85443. Any moneys remaining in the special reserve fund of the district, except moneys placed in the fund pursuant to subdivision (b) of Section 2106 or subdivision (b) of Section 2109 shall be transferred to the general fund of the district by the auditor and treasurer upon written request to the superintendent of schools, auditor, and treasurer of the county by the governing board of the district, and the auditor and treasurer shall discontinue the special reserve fund.

## PART 51. EMPLOYEES

### CHAPTER 1. PROVISIONS APPLYING TO ALL EMPLOYEES

#### Article 1. General Provisions

87000. Unless the context otherwise requires, the definitions set forth in Sections 87001 to 87011, inclusive, shall govern the construction of this part.

87001. "Education position" or "position requiring certification qualifications" includes every type of service for which certification qualifications are established by or pursuant to Sections 87000 to 87012, inclusive, and Section 87063, and Chapter 2 (commencing with Section 44200) of Part 25 of Division 3 of Title 2.

87002. A "credential" is a document issued by the State Board of Education, Commission for Teacher Preparation and Licensing, or the Board of Governors of the California Community Colleges authorizing a person to engage in the service specified in the credential.

87003. A "life diploma" is a document issued on the basis of a credential upon completion by the applicant of specified requirements.

87004. The word "certificate" used as a noun refers to the document issued by a county board of education to license the holder to perform the service specified in the certificate.

87005. The word "certificate" used as a verb refers to the act of licensing individuals for employment in educational positions.

87006. The term "certificated person" refers to a person who holds one or more documents such as a certificate, a credential, or a life diploma, which singly or in combination license the holder to engage in the school service designated in the document or documents.

87007. The term "certification document" as used in this code includes only certificates, credentials and life diplomas.

87008. A termination of probation and dismissal of an accusation or information pursuant to Section 1203.4 of the Penal Code shall not, for the purpose of this division have any effect.

87009. A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury is deemed to be a conviction within the

meaning of Sections 87290, 87335, 87346, 87405, and 88022 of this code, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information. The record of such conviction of a sex offense as defined in Section 87010 or of a narcotics offense defined in Section 87011 shall be sufficient proof of conviction of a crime involving moral turpitude for the purposes of Sections 87453, 87467, 87484, and 87732 inclusive, relating to the dismissal of permanent employees.

87010. "Sex offense" as used in Sections 87290, 87335, 87346, 87405, and 88022 means any one or more of the offenses listed below:

(a) Any offense defined in Sections 266, 267, 285, 286, 288, 288a, 647a, subdivision 3 or 4 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 if the offense defined in such sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961 if such offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

87011. "Narcotics offense" as used in Sections 87290, 87335, 87346, 87405, and 88022 means any one or more of the following offenses:

(a) Any offense in Sections 11350 to 11355, inclusive, 11366, 11368,

and 11550 of the Health and Safety Code.

(b) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the above-mentioned offenses.

(c) Any offense committed under former Sections 11500 to 11503, inclusive, 11557, 11715, and 11721 of the Health and Safety Code.

(d) Any attempt to commit any of the above-mentioned offenses.

87012. Any record of conviction of any applicant for, or holder of, a certification document, shall, for the purposes of this division, be admissible in evidence in any civil action or administrative proceedings pertaining to the issuance, suspension or revocation of such certification document, any provision of law to the contrary notwithstanding.

87013. In order to assist community college district employees to secure employment during vacation periods in occupations which tend to contribute to their rendering improved service as employees of the community college district, any governing board of a district or districts, in which the average daily attendance of all said districts combined is in excess of 200,000, is authorized to provide service necessary for aiding its employees in securing such employment.

87014. (a) Whenever any employee of a community college district is attacked, assaulted, or menaced, by any student, it shall be the duty of such employee, and the duty of any person under whose direction or supervision such employee is employed in the public school system who has knowledge of such incident, to promptly report the same to the appropriate law enforcement authorities of the county or city in which the same occurred. Failure to make such report shall be a misdemeanor punishable by a fine of not more than two hundred dollars (\$200).

(b) An act by any member of the governing board of a community college district, or any employee of any community college district which is designed directly or indirectly to influence or urge a person under a duty to make the report prescribed by subdivision (a) not to make such report, shall be a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars (\$100) or more than two hundred dollars (\$200).

87015. The governing board of a community college district may make awards to employees who:

(a) Propose procedures or ideas which thereafter are adopted and effectuated, and which result in eliminating or reducing district expenditures or improving operations; or

(b) Perform special acts or special services in the public interest; or

(c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in operations of the district.

Before any such awards are made, the governing board shall adopt rules and regulations. The board may appoint one or more merit

award committees made up of district officers, district employees, or private citizens to consider employee proposals, special acts, special services, or superior accomplishments and to act affirmatively or negatively thereon or to provide appropriate recommendations thereon to the board.

Any award granted under the provisions of this section which may be made by an awards committee under appropriate district rules, shall not exceed two hundred dollars (\$200), unless a larger award is expressly approved by the governing board.

When an awards program is established in a district under the provisions of this section, the governing board shall budget funds for this purpose but may authorize awards from funds under its control whether or not budgeted funds have been provided or the funds budgeted are exhausted.

87016. Whenever any person is requested by a community college district to travel to the headquarters of such district for the purpose of being interviewed and examined prior to possible employment, the district may reimburse such candidate for expenses necessarily incurred in traveling from his place of residence to the place of interview or examination.

87017. Notwithstanding any provision of law to the contrary, a community college district may, from funds under its jurisdiction, pay the surviving spouse of any employee who is murdered while in the course of his employment the amount that the deceased would have received if he had lived to complete the time remaining in his contract with the district.

This section shall be applicable to the surviving spouse of any such employee who was murdered during or after the 1973-74 school year.

## Article 2. Rights and Duties

87030. Any president, instructor, employee, or community college officer who refuses or willfully neglects to make such reports as are required by law is guilty of a misdemeanor and is punishable by a fine of not more than one hundred dollars (\$100).

87031. Materials in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

Such material is not to include ratings, reports, or records which (1) were obtained prior to the employment of the person involved, (2) were prepared by identifiable examination committee members, or (3) were obtained in connection with a promotional examination.

Every employee shall have the right to inspect such materials upon request, provided that the request is made at a time when such person is not actually required to render services to the employing district.

Information of a derogatory nature, except material mentioned in the second paragraph of this section, shall not be entered or filed unless and until the employee is given notice and an opportunity to

review and comment thereon. An employee shall have the right to enter, and have attached to any such derogatory statement, his own comments thereon. Such review shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction.

87032. The governing board of a community college district shall provide for the payment of the actual and necessary expenses, including traveling expenses, of any employee of the district incurred in the course of performing services for the district, whether within or outside the district, under the direction of the governing board. The board may authorize an advance of funds to cover such necessary expense. Such advance shall be repaid or adjusted upon filing of a regular claim for the actual and necessary expenses incurred. The governing board may direct any employee of the district to attend any convention or conference or to visit schools for the discussion or observation of any school matter appertaining to the duties of the employee or any question of interest to the district.

In implementing this section, a governing board of any community college district may, by rule or regulation, delegate to the district superintendent the authority to perform all powers described in this section; provided, that funds expended pursuant to such delegation shall not exceed the amount previously budgeted for such purposes by the governing board.

87033. The governing board of a community college district may provide for the reimbursement of employees of the district for the use of automobiles owned by the employees and used in the performance of regularly assigned duties, by establishing an allowance for such use on a mileage or monthly basis.

87034. Neither any local legislative body nor any community college district governing board shall enact or enforce any ordinance or promulgate or enforce any rule or regulation which limits, during their off-duty hours, the participation of employees in political activities not prohibited by the Education Code.

87035. (a) The governing board of a community college district may grant leaves of absence to employees to appear as a witness in court other than as a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee.

(b) The governing board of a community college district may grant leaves of absence to employees, in positions requiring certification qualifications, regularly called for jury duty in the manner provided for by law.

(c) The governing board may grant such leaves of absence with pay up to the amount of the difference between the employee's regular earnings and any amount he receives for jury or witness fees.

87036. The governing board of a community college shall grant leave of absence to any employee, serving in a position not requiring certification qualifications, regularly called for jury duty in the

manner provided for by law. The governing board shall grant such leave with pay up to the amount of the difference between the employee's regular earnings and any amount he receives as juror's fees.

It is unlawful for the governing board or personnel commission of any community college district to adopt or maintain any rule, regulation, or policy which has as its purpose or effect a tendency to encourage employees to seek exemption from jury duty, or to directly or by indirection solicit or suggest to any employee that he seek exemption from jury duty, or to discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of such employee's service on any jury panel.

The board or personnel commission may, however, provide by rule that only a percentage of its staff, which percentage shall not be less than 2 percent, shall be granted such leave, with pay, at any one time.

Nothing in the foregoing provisions shall preclude the district superintendent or his agent from discussing with the affected employee the practicality of seeking exemption when acceptance would tend to materially disrupt the district's operations.

87037. The governing board of a community college district may use district funds for cash deposits, when required to guarantee payment for transportation purchased on credit for district employees or other representatives who are directed by the governing board to travel on district business.

87038. The governing board of a community college district may use district funds for cash deposits, when required to guarantee payment for health plans purchased on credit for district employees.

87039. It shall be unlawful for any person authorized to invoke disciplinary action against any employee of a community college district or employee in the office of the county superintendent of schools either in his individual capacity or as a member of any board, to invoke or attempt to invoke disciplinary action against any such employee or to discriminate against such employee in the terms, conditions and privileges of employment solely because of the employee's appearance before the governing board of a district, the county board of education, legislative committees, or any other duly constituted governmental board, commission or council, whether such appearance was undertaken voluntarily or otherwise.

Violation of the provisions of this section shall be a misdemeanor.

87040. The governing board of each community college district when drawing an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes: participating in a deferred compensation program offered by the district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the

Constitution, or paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of the employee or his dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner, or paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the provisions of Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his dependents, issued by a nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or paying periodic charges on any legal services contract for the benefit of the employee, or his dependents issued by a nonprofit membership corporation lawfully operating under Section 9200 or 9201.2 of the Corporations Code. The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit membership corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his authorization for the deduction up to one month in advance of the effective date of coverage.

“Group insurance” as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the community college district or an employee organization but it shall, nevertheless, include annuity programs authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

87041. Community college districts may, but shall not be required to, provide payroll deduction for the collection of insurance premiums except as expressly authorized by Section 87040.

87042. Any school employee of a community college district who is absent because of injury or illness which arose out of and in the course of the person's employment, and for which the person is receiving temporary disability benefits under the workers' compensation laws of this state, shall not be entitled to receive wages or salary from the district which, when added to the temporary disability benefits, will exceed a full day's wages or salary.

During such periods of temporary disability so long as the employee has available for the employee's use sick leave, vacation, compensating time off or other paid leave of absence, the district

shall require that temporary disability checks be endorsed payable to the district. The district shall then cause the employee to receive the person's normal wage or salary less appropriate deductions including but not limited to employee retirement contributions.

When sick leave, vacation, compensating time off or other available paid leave is used in conjunction with temporary disability benefits derived from workers' compensation, as provided in this section, it shall be reduced only in that amount necessary to provide a full day's wage or salary when added to the temporary disability benefits.

**87043.** Notwithstanding the provisions of Sections 87042, 87787 and 88192, a community college district may waive the requirement that temporary disability checks be endorsed payable to the district, and may in lieu thereof, permit the employee to retain his temporary disability check, providing that notice be given to the district that such check has been delivered to the employee. In such cases, the district shall then cause the employee to receive his normal wage or salary less appropriate deductions, including, but not limited to, employee retirement contributions, and an amount equivalent to the face amount of the temporary disability check, which the employee has been permitted to retain. In all cases, employee benefits are to be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments.

Nothing contained herein shall be deemed to in any way diminish those rights and benefits which are granted to a school employee pursuant to the provisions of Sections 87042, 87787 and 88192.

**87044.** When a president or other community college official releases a minor student of such school to a peace officer for the purpose of removing the minor from the school premises, such school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to such officer, and regarding the place to which the minor is reportedly being taken.

**87045.** A classified school employee currently employed by any community college district which decides to maintain classes on Saturday or Sunday, or both, shall not, without his or her written consent, be required to change his or her workweek to include Saturday or Sunday, or both. No such classified employee shall be assigned to perform services on a Saturday or Sunday if such classified employee objects in writing that such assignment would conflict with his or her religious beliefs or practices. Enactment of this section shall cause no change or disruption in existing work schedules which may already include Saturday or Sunday as regular workdays.

This section shall not be construed as limiting the power of any governing board of a community college district to govern the schools of the district, including the assignment of classified employees employed by such district.

This section shall not be construed as modifying or otherwise affecting in any way the provisions of Sections 88026, 88027, or 88030, or any other provisions of this code relating to employment of classified employees.

### Article 3. Personnel Interchange Between Certificated and Classified Positions

87060. The purpose of this article is to provide a basis of determination as to what constitutes a supervisory or administrative classified position or a position requiring certification qualifications not clearly defined in other sections of this code; to provide an interchange of qualified personnel between the certificated and classified services of the public school systems; and to secure rights and benefits to employees moving between the two services, all to the end of assuring better educational systems for the students of the public school systems.

The provisions of this article are not intended, nor may they be construed, to invalidate any other sections of this code which were enacted prior to the enactment of this article, relating to positions requiring certification qualifications or the classified service covered in Article 3 (commencing with Section 88060) of Chapter 4 of this part, unless specifically provided herein. This article shall where appropriate apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of Chapter 4 of this part.

87061. If an employee of a community college district, including a district having the merit system as outlined in Article 3 (commencing with Section 88060) of Chapter 4 of this part, employed in a position requiring certification qualifications is assigned to a position in the classified service of the same district, the employee shall retain all sickness and injury, sabbatical leave, and other rights and benefits. All seniority and tenure rights accumulated by him at the time of assignment to the position in the classified service shall be secured to him for a period of 39 months from the time of acceptance of the classified position. His return to certificated service at any time within the 39 months shall be treated as if there had not been an interruption in his certificated service.

87062. If an employee of a community college district, including a district having the merit system as outlined in Article 3 (commencing with Section 88060) of Chapter 4 of this part, employed in a position in the classified service is assigned to a position in the same district requiring certification qualifications, the employee shall retain all sick leave, vacation, and other rights and benefits accumulated by him at the time he is assigned to a position requiring certification qualifications. All seniority and permanency rights shall be secured to such an employee for a period of 39 months and his return shall be treated as if there had not been an interruption in his classified service.

87064. No governing board of a community college district or a county board of education or a county superintendent of schools or other appointing authority shall require a credential or specify certification qualifications, per se, as a prerequisite for employment in any position under its jurisdiction which does not, by statute, require credentials or certification qualifications.

87065. Any person who, on September 15, 1961, is serving in a position for which a credential was issued or certification qualifications required pursuant to former Section 13150 or 13292 prior to the repeal of such sections, shall be deemed to be an employee in a position requiring such credential or certification qualifications for as long as he holds such position after September 15, 1961.

87067. (a) Any person who, on September 17, 1965, was serving in a position as business manager and had been assigned a title listed in Section 72408 shall be deemed to be an employee in a position requiring certification qualifications for so long as he holds such position in the same district.

(b) Any person who, on November 22, 1971, was serving in a position of business manager and that position had been declared, by the governing board, to be one requiring certification qualifications in accordance with the authority extended in this section prior to November 22, 1971, shall be deemed to be an employee in a position requiring certification qualifications for so long as he holds such position in the same district.

(c) Except as provided in subdivision (d), on and after November 22, 1971, no person employed in a position of business manager shall be required to be credentialed and no title assignment, work, duty statement or other device, including but not limited to educational or other requirements of applicants, which may be established by the governing board, may be construed to require certification qualifications for any such position or reasonably related position.

(d) The governing board of a community college district with less than 3,000 units of average daily attendance in the prior fiscal year may require any person employed in a position of business manager to be credentialed.

## CHAPTER 2. CREDENTIALS FOR COMMUNITY COLLEGE PERSONNEL

### Article 1. Issuance of Temporary Certificates

87200. Nothing in this chapter shall be construed as preventing community college districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher assistants under the terms of existing law and financial support formulas. The Board of Governors of the California Community Colleges may study the various roles of such paraprofessionals and routinely report its findings.

## Article 2. Credentials and Certificates

87210. Except where such service is provided by a community college district pursuant to Section 87213.5, each county or city and county board of education may provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the county superintendent of schools of such county or city and county or of a community college district under the jurisdiction of such county superintendent of schools. Such registration shall authorize the service of the holder as an employee of the county superintendent of schools or of any community college district under his jurisdiction in the capacity in which and for the period of time for which the certification or other document is valid.

87211. County boards of education may renew any certificate legally issued by them prior to October 1, 1945, and now in force; provided, that no certificate granted upon a credential issued by the State Board of Education or commission for a limited period shall be renewed or extended unless the credential upon which it was issued has been renewed or extended, and then only for the period of the renewal or extension of the credential.

87212. Except where such service is provided by a community college district authorized to register certification documents pursuant to Section 87213.5, each county or city and county board of education may issue temporary certificates for the purpose of authorizing salary payments to certified employees whose credential applications are being processed or to personnel employed in child development programs whose permit applications are being processed. The applicant for such a temporary certificate shall make a statement under oath that he has duly filed his application for a credential or permit together with the required fee and that to the best of his knowledge no reason exists why he should not be issued a certificate or permit. Such certificate or permit shall be valid for not more than 120 schooldays, and only until the credential or permit originally requested is either issued or denied by the board of governors or commission.

87212.5. A community college district which may issue warrants pursuant to Section 85261 may, at its discretion, provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the community college district.

87213. The standard for the exchange credential shall be as prescribed by the commission pursuant to Section 87422.

This credential shall authorize service in a position requiring certification qualifications as an exchange certified employee for performance of the services specified in the credential. Services for which a license is required by the Business and Professions Code may not be authorized unless the applicant holds such a license.

87214. Except as provided in this code, no certification document

shall be granted to any person unless and until he has subscribed to the following oath or affirmation: "I solemnly swear (of affirm) that I will support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United States and the State of California." The oath or affirmation shall be subscribed and certified or declared, pursuant to Section 2015.5 of the Code of Civil Procedure, and shall be filed with the Board of Governors of the California Community Colleges. Any certificated person who is a citizen or subject of any country other than the United States, and who is employed in any capacity in any of the public schools of the state shall, before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the state. Upon the violation of any of the terms of the oath or affirmation, the Board of Governors of the California Community Colleges shall suspend or revoke the credential which has been issued.

87215. The issuance of any teaching credential requires (1) the passing of a satisfactory examination on the provisions and principles of the Constitution of the United States in a community college, college, or university of recognized merit or (2) the satisfactory completion of two semester units of work on the provisions and principles of the Constitution of the United States in any university or college from which undergraduate credits earned are accepted by the commission as meeting undergraduate credit requirements for credentials issued by the commission or in any publicly supported community college in the state. Public and private institutions in California may be authorized to attest to the individual's satisfaction of this requirement.

87216. When required by the Board of Governors of the California Community Colleges, the application for a certification document or the renewal thereof shall be accompanied by a certificate in such form as shall be prescribed by the Board of Governors of the California Community Colleges, from a physician and surgeon licensed under the provisions of the Business and Professions Code showing that the applicant is free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with students.

87217. No person otherwise qualified shall be denied the right to receive credentials from the board of governors, to receive training for the purpose of becoming an instructor, or to engage in practice teaching in any community college, on the grounds he is physically handicapped; nor shall any community college district refuse to engage an instructor on such grounds, provided, that such physically handicapped instructor is able to carry out the duties of the position for which he applies in the community college district. "Physically handicapped" as used in this section includes total or partial visual or hearing impairments, orthopedic impairments, and other physical impairments.

87218. No person otherwise qualified shall be denied the right to receive credentials issued by the board of governors, to receive training for the purpose of becoming an instructor, or to engage in practice teaching in any school, on the ground he has physical deformities; provided, that such physical deformities do not constitute a health hazard to other persons with whom he may become associated.

87219. The Board of Governors of the California Community Colleges shall adopt, in addition to any other regulations authorized by law, regulations requiring every applicant for a credential, or for the renewal of a credential, to submit reasonable evidence of identification and good moral character.

87220. Each applicant for a credential, or for the renewal of a credential, shall submit with his application duplicate personal identification cards provided by the Board of Governors of the California Community Colleges, upon which shall appear the legible fingerprints and a personal description of the applicant.

The Board of Governors of the California Community Colleges is authorized to, and shall adopt such regulations as may in its judgment be necessary for the administration of this section.

87221. The Board of Governors of the California Community Colleges is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a credential or for the renewal of a credential from any agency or department of the state and for that purpose, any provision of law to the contrary notwithstanding:

(a) The State Bureau of Criminal Identification and Investigation shall furnish, upon application of the Board of Governors of the California Community Colleges, all information pertaining to any applicant of whom there is a record in its office.

(b) Each state hospital under the jurisdiction of the State Department of Health shall furnish upon application of the Board of Governors of the California Community Colleges and with the consent of the holder or applicant, all information and records pertaining to that holder or applicant of whom there is a record in its office.

The Board of Governors of the California Community Colleges, upon written request of any private school authority, shall release to that private school authority information and other data relative to the identification or fitness of any applicant for an instructing position in the private school so long as not otherwise prohibited by any other privileged communication statute.

87222. Teachers, principals, presidents, supervisors, school librarians, superintendents and assistant superintendents, and other certified personnel who are presently employed in public schools in California shall not be adversely affected by this chapter. However, presently employed personnel and those in preparation shall be permitted to seek initial or renewal certification under the terms of this chapter.

87225. The terms of credentials shall be as specified in this article.

87226. Except as otherwise specifically required in this chapter, the board of governors shall establish regulations pertaining to the expiration dates of initially issued and renewed credentials.

87227. Each credential issued by the board of governors shall clearly state the kind of service that it authorizes, the grades or classes, or the types of schools in which it authorizes service, and shall have such other content as the board of governors may prescribe or as may be prescribed by authority of the board of governors.

87228. Each credential issued shall contain its date of expiration and shall be issued on a form prescribed by the board of governors, and shall bear the signatures of the secretary and the chairman of the board of governors or their facsimile signatures.

87229. Whenever the date of expiration of any credential occurs while the person holding the credential is in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California or in the service of the United States Merchant Marine, or in the full-time paid service of the American Red Cross, during any national emergency declared by the President of the United States of America, or during a war in which the United States of America is engaged, or within six months after such person honorably leaves such service or has been placed on inactive duty, the credential is hereby continued in force until six months after such person honorably leaves such service or has been placed on inactive duty.

The holder of a credential so extended shall be entitled to a renewal of the credential prior to its date of expiration as herein fixed, subject to provisions of this code relating to the renewal of credentials.

87230. Whenever satisfactory proof is presented to the board of governors by any person to whom the board of governors has granted a credential that has been lost or destroyed, the board of governors shall issue to him a new credential of the same kind, grade, character, and tenure as that lost or destroyed.

For issuance of the new credential the board of governors shall require a fee to cover the cost of replacement not to exceed the fee for issuance of an original credential pursuant to Section 44235. The revenues from the fee provided for in this section shall not be available for expenditure until appropriated.

87231. Satisfactory proof shall consist of an affidavit by the person, giving the kind of the credential, the date of issue, if possible, and the basis upon which it was issued, together with such other information as the issuing authority may require.

87232. Any oath required of an applicant for a credential may be administered by any of the persons enumerated in Section 60, by such employees of the community colleges as the board of governors may designate.

Article 3. Jurisdiction of Board of Governors, Commission for Teacher Preparation and Licensing, and State Board of Education Over Community College Credentials

87250. In Chapter 1549 of the Statutes of 1967, the Legislature established the Board of Governors of the California Community Colleges (hereinafter referred to as the board of governors) and gave to it the powers which the State Board of Education, the Superintendent of Public Instruction, the State Department of Education, and the Director of Education (hereinafter referred to collectively as the Board of Education) held with respect to the management, administration, and control of community colleges. It was the intent of the Legislature that the board of governors succeed to the powers of the Board of Education in relation to certification of personnel for service in grades 13 and 14. In order to make this succession of power effective and to clarify the authority of each of these bodies and officers in relation to certification, the Legislature has enacted this article.

87251. As used in this article "credential" means any credential authorizing service both in grades 13 and 14 and in other grades.

87252. The authority over credentials and certificates which authorize service both in grades 13 and 14 and in other grades shall be divided between the board of governors and the Board of Education or the Commission for Teacher Preparation and Licensing. The board of governors shall have the authority to issue, suspend, revoke, or take any other lawful action on such credentials in relation to their authorization for service in grades 13 and 14. Whenever in this division reference is made to the "State Board of Education" or the "Commission for Teacher Preparation and Licensing" with respect to the administration of community college credentials, such reference shall be deemed to mean the Board of Governors of the California Community Colleges. The Board of Education or the Commission for Teacher Preparation and Licensing shall have the authority to issue, suspend, revoke, or take any other lawful action on such credentials in relation to their authorization for services in grades other than grades 13 and 14.

87253. Notwithstanding the provisions of Sections 87252 and 87254, the Board of Education or the Commission for Teacher Preparation and Licensing shall have the authority to renew any credential which was issued by it before the effective date of the enactment of this article.

87254. In all respects, credentials under the jurisdiction of either the board of governors or the Board of Education or the Commission for Teacher Preparation and Licensing shall be considered separate and apart from credentials under the jurisdiction of the other board even though both boards may act pursuant to the same provision of this code. A person who desires to have available the full

authorization of such a credential must hold both a credential issued by the Board of Education or the Commission for Teacher Preparation and Licensing and a credential issued by the board of governors.

87255. Persons holding credentials which are presently in force shall not be required to obtain new credentials from the board of governors and the Board of Education or the Commission for Teacher Preparation and Licensing. A person who holds a credential issued on the basis of a partial fulfillment of requirements shall be entitled to complete his program for fulfillment as approved by the Board of Education or the Commission for Teacher Preparation and Licensing and to receive his fully satisfied credential from the Board of Education or the Commission for Teacher Preparation and Licensing.

87256. The Board of Education or the Commission for Teacher Preparation and Licensing shall complete any action which it is taking in relation to a credential and which is not completed on the effective date of the enactment of this article. "Complete any action" includes the retention of jurisdiction by the committee of credentials and the Board of Education or the Commission for Teacher Preparation and Licensing of any matter until it is finally resolved by the Board of Education or the Commission for Teacher Preparation and Licensing or by judicial review.

87257. The board of governors and the Board of Education or the Commission for Teacher Preparation and Licensing are encouraged to maintain as similar as possible, the requirements for credentials issued by either of them under authorization of the same provision of the Education Code, although the Legislature recognizes that the needs and problems in grades 13 and 14 and the other grades are different. The board of governors and the Board of Education or the Commission for Teacher Preparation and Licensing are directed to keep each other fully informed of actions taken by either of them with respect to such requirements.

#### Article 4. General Requirements for Community College Credentials

87270. The board of governors or the Commission for Teacher Preparation and Licensing may enter into a written agreement pursuant to which the department or commission shall perform administrative tasks relating to credentials and certificates of qualification issued by the board. The department or commission shall receive all fees paid in connection with credentials and certificates of qualifications for which it renders services to the board in full payment for such services and for the materials and equipment it uses to carry out its duties pursuant to such an agreement.

87271. There is in the State Treasury the Community College Credentials Fund. All fees levied and collected by the community

colleges shall be deposited in the Community College Credentials Fund, and are hereby continuously appropriated to support the activities and functions of the board of governors.

It is the intent of the Legislature that fees levied for the issuance of teachers' credentials shall be sufficient to offset the cost of all activities of the board of governors, including the committee of credentials and any services provided by the Department of Education.

87272. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials. The fees shall be set by the board in such a manner that revenues sufficient to support all activities and functions, including continuing research and evaluation activities, shall be produced. In no case shall a fee exceed twenty dollars (\$20) without express legislative approval.

87273. Any fee or excess amount of fee paid under Section 87272 may be refunded by the board of governors from the Community College Credentials Fund when the applicant does not qualify for a credential or when such fee or excess is paid in error, and the amount of any such refund is hereby appropriated for the making of such refund.

87274. An individual employed by a community college district in grades 13 and 14 as an instructor, supervisor, administrator, librarian, counselor, or student personnel worker shall be required to possess a credential or certification document specified in this article. The board of governors may prescribe, by regulation, the standards as to equivalency and standards for professional, vocational training, or experience, or any combination thereof, wherever referred to in this article and such additional minimum standards as they deem appropriate for the administration and enforcement of this article.

87275. The minimum requirements for the community college instructor credential shall be either (a) or (b) and (c), as follows:

(a) Possession of a master's degree, or its equivalent, from an accredited institution, in any field except professional education; or

(b) Professional or vocational training or experience, or any combination thereof, established as adequate pursuant to regulations adopted by the board of governors; and

(c) Compliance with the provisions of Sections 87214, 87216, 87219, 87220, and 87221 with respect to credentials authorized by this article.

87276. The community college instructor credential shall be issued by the board of governors following a determination that (a) the applicant meets the requirements specified in subdivision (a) or (b) of Section 87275, and (b) a determination by the board of governors that the applicant has complied with subdivision (c) of Section 87275.

87277. The community college instructor credential shall authorize the holder to perform the following functions:

(a) Teach, in grades 13 to 14, inclusive, any course in a subject

matter area in which the holder of the credential has a major or has earned a master's degree, or its equivalent.

(b) Teach any course in classes for adults.

(c) Teach, in grades 13 and 14, any course in a subject matter area in which the holder of the credential has completed a minor, if the governing board of the district employing the holder specifically authorizes the holder to teach such courses by resolution. This authorization may be renewed annually by resolution of the governing board. If the credential is issued based on professional or vocational training or experience, or any combination thereof, the holder shall perform only the teaching functions authorized by regulations adopted by the board of governors.

87278. The minimum requirements for the community college supervisor credential shall be either (a) or (b), (c), and (d), as follows:

(a) Possession of a master's degree, or its equivalent, from an accredited institution, in any field; or

(b) Professional or vocational training or experience, or any combination thereof, established as adequate pursuant to regulations adopted by the board of governors; and

(c) A combination of not less than two years of teaching or counseling, or both, library science, research, administrative experience in higher education, or its equivalent in postsecondary education, or its equivalent in training and development experience in other related fields; and

(d) Compliance with the provisions of Sections 87214, 87219, 87220, and 87221 with respect to credentials authorized by this article.

87279. The community college supervisor credential shall be issued by the board of governors following a determination that (a) the applicant meets the requirements specified in subdivisions (a) or (b) and (c) of Section 87278, and (b) a determination by the board of governors that the applicant has complied with subdivision (d) of Section 87278.

87280. The community college supervisor credential shall authorize the holder to be employed as a supervisor in a community college district.

87281. The minimum requirements for the community college chief administrative officer credential shall be (a), either (b), or (c), and (d), as follows:

(a) Possession of a master's degree, or its equivalent, from any accredited institution, in any field; and

(b) A combination of not less than two years of teaching or counseling, or both, library science, research, and administrative experience in higher education, or its equivalent in postsecondary education, or its equivalent in training and development experience in other related fields; or

(c) Eminence in administration in higher education; and

(d) Compliance with the provisions of Sections 87214, 87219,

87220, and 87221 with respect to credentials authorized by this article.

87282. The community college chief administrative officer credential shall be issued by the board of governors following a determination that (a) the applicant meets the requirements specified in subdivisions (a) and either (b) or (c) of Section 87281, and (b) a determination by the board of governors that the applicant has complied with subdivision (d) of Section 87281.

87283. The community college chief administrative officer credential shall authorize the holder to be employed as a chief administrative officer of a community college, a superintendent of a community college district, or both.

87284. The minimum requirements for the community college librarian, counselor, or student personnel worker credential shall be (a) and (b), as follows:

(a) Possession of a master's degree, or its equivalent, from an accredited institution, in a field related to library, counseling, or student personnel work, respectively; and

(b) Compliance with the provisions of Sections 87214, 87219, 87220, and 87221 with respect to credentials authorized by this article.

87285. The community college librarian, counselor, or student personnel worker credential shall be issued by the board of governors following a determination that (a) the applicant meets the requirements specified in subdivision (a) of Section 87284 and (b) a determination by the board of governors that the applicant has complied with subdivision (b) of Section 87284.

87286. The community college librarian, counselor, or student personnel worker credential shall authorize the holder to be employed as a librarian, counselor, or student personnel worker, respectively, in a community college district.

87288. No applicant otherwise qualified for a credential authorized by this article shall be denied the right to receive credentials from the board of governors on the grounds he is totally or partially blind; nor shall any community college district refuse to engage an instructor on such grounds, provided, that such blind instructor is able to carry out the duties of the position for which he applies in the community college district.

87289. The board of governors may deny any application for the issuance of a credential authorized by this article made by any applicant who:

(a) Is physically so disabled as to be rendered unfit to perform the duties authorized by the credential for which he applies.

(b) Is addicted to the use of intoxicating beverages to excess.

(c) Is addicted to the use of narcotics or habit-forming drugs.

(d) Has committed any act involving moral turpitude.

(e) Has had a certification document revoked.

(f) Has intentionally practiced or attempted to practice any material deception or fraud in his application.

(g) Fails or refuses to furnish reasonable evidence of identification or good moral character.

(h) Has been convicted of any offense defined in subdivision (1) of Section 314 of the Penal Code.

87290. The board of governors shall deny any application for the issuance of a credential authorized by this article made by any applicant who comes within any of the following classes:

(a) Has been determined to be a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(b) Has been convicted of any sex offense as defined in Section 87010.

(c) Has been convicted of a narcotics offense as defined in Section 87011.

87291. (a) A credential which was issued prior to November 10, 1969, shall remain in force as long as it is valid and continues to be valid under the law and regulations of the board of governors. The board of governors may not by regulation invalidate such valid credential in relation to service in grades 13 and 14 unless it issues to the holder thereof, in substitution, a new credential authorized by other sections of this article of an equivalent type in relation to service in grades 13 and 14 and which new credential is no less restrictive than the credential for which it is substituted with respect to the kind of service which it authorizes in grades 13 and 14, and the grades or classes of types of schools in which it authorizes service in relation to grades 13 and 14.

(b) Credentials issued prior to November 10, 1969, and credentials issued under subdivision (c) of this section may be renewed in accordance with regulations in effect on November 10, 1969.

(c) Within the scope of the power given to it by the provisions of Article 3 (commencing with Section 87250) of this chapter, the board of governors shall issue the appropriate credentials authorized by the law operative, and the rules and regulations in effect, on November 10, 1969, to any person who is working toward meeting the requirements of a prior regular credential and is enrolled in an education program for such purpose on November 10, 1969. No credential shall be issued under this subdivision after January 1, 1971.

87292. (a) A provisional credential may be issued to instructional personnel in accordance with the regulations adopted by the board of governors.

The minimum standards for a provisional credential shall be prescribed by the board of governors.

The regulations adopted by the board of governors prescribing the minimum standards for a provisional credential shall give consideration to training and teaching experience in California schools and shall establish the term of renewal for such a credential.

Any issuance of a provisional credential shall comply with the provisions of Sections 87214, 87219, 87220, and 87221 with respect to

credentials authorized by this article.

(b) A limited service credential may be issued to instructional personnel in accordance with the regulations adopted by the board of governors.

The minimum standards for a limited service credential shall be prescribed by the board of governors.

The regulations adopted by the board of governors prescribing the minimum standards for a limited service credential shall give consideration to training and teaching experience in California schools and shall establish the term of renewal for such a credential.

A limited service credential shall be issued to persons teaching 40 percent or less of the number of hours considered as a full-time assignment for regular employees having similar duties in the community colleges of the district in which he is employed.

Any issuance of a limited service credential shall comply with the provisions of Sections 87214, 87219, 87220, and 87221 with respect to credentials authorized by this article.

87293. The governing board of a community college district may, by resolution, establish administrative and supervisory positions in the classified service not requiring certification where such positions relate to business, research, or community service functions.

87294. A credential or certification document issued pursuant to this article may identify the subject area authorization and the extent or type of service permitted. Such identification shall be made with such requirements as the board of governors may authorize.

87295. The board of governors shall, by regulation, establish minimum standards authorizing service for instructors of classes for adults and shall establish procedures for the issuance of appropriate certificates of qualification.

87296. The Commission for Teacher Preparation and Licensing shall have no authority over or in relation to credentials or certification documents issued pursuant to this article.

87297. The board of governors may issue a community college instructor credential, supervisor credential, librarian credential, counselor credential, health services credential, and student personnel worker credential to any person who has partially fulfilled the minimum requirements for the particular credential on the condition that such person completely fulfill such requirements within a reasonable period of time. The board of governors may by rule establish the requirements for granting a credential under this section and establish the period of time within which the requirements for the credential must be completely fulfilled.

87298. The board of governors shall issue a community college health services credential. The minimum requirements for this credential are all of the following:

(a) Possession of a valid license, certificate, or registration, appropriate to the health service to be designated, issued by the California agency authorized by law to license, certificate, or register persons to practice that health service in California.

(b) Five years, or its equivalent, of college or university education, or five years of professional preparation approved by the board of governors.

(c) Compliance with the provisions of Sections 87214, 87219, 87220, and 87221.

A community college health services credential shall authorize the holder to perform those health services for which the holder is licensed by the State of California as a part of the operation of a community college.

87299. The board of governors may issue an eminence credential to any person who has achieved eminence in a field of endeavor, authorizing service by such person in a community college district. The board of governors shall adopt criteria for determining eminence.

Minimum requirements for the issuance of an eminence credential shall be:

(a) Certification by the governing board of a community college district to the board of governors that the board, the faculty of the related department or division, and the administration of the college have concurred that a need exists and have concurred in the determination of eminence in accordance with established criteria.

If concurrence cannot be reached as in this subdivision, the governing board of employing district may request the credential using the alternate requirement contained in subdivision (b).

(b) A certification from the employing district governing board to the board of governors that a need exists. The determination of eminence shall be made, based on established criteria, by a statewide committee representative of the administration, boards, and faculty appointed by the board of governors.

Such credential shall authorize the holder to perform the following functions:

(1) Teach only in the community college district that has requested the credential and certified to the need thereof.

(2) Teach either graded courses or classes for adults in the subject matter field for which the credential was issued.

The credential may be issued authorizing service for a two-year period. The credential may be renewed for successive two-year periods, pursuant to the procedure set forth in this section.

Any issuance of an eminence credential shall comply with the provisions of Sections 87219, 87220, and 87221.

## Article 5. Revocation or Suspension of Credentials and Certificates

87330. Should any person employed by a community college district in a position requiring certification qualifications refuse, without good cause, to fulfill a valid contract of employment with such district or leave the service of such district without the consent of the superintendent, if any, or the governing board, of such district

except in the manner provided for by law, the board of governors shall, after proof of such fact is made to it, suspend the credentials theretofore issued to him by the commission for not more than one year.

If the credentials issued to the person by the board of governors have once been suspended pursuant to this section, the board of governors may, if such credentials again become subject to suspension under this section, suspend such credentials for not more than two years.

87331. The board of governors shall revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause which would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

87332. Whenever the holder of any credential issued by the board of governors, State Board of Education, or the Commission for Teacher Preparation and Licensing is charged with immoral or unprofessional conduct or evident unfitness for service or persistent defiance of, and refusal to obey, the laws regulating the duties of his position, the board of governors in its discretion after notifying the person charged of its intention to do so, may require the county board of education of the county in which he is serving or has last served to give notice of, and conduct, a hearing of the charges in the manner prescribed by law for the hearing of charges for the revocation or suspension of a certificate by a county board of education.

The county board of education, after the hearing, shall report to the board of governors its findings, and a summary of the evidence, and shall make a definite recommendation concerning the revocation or suspension of the credential.

Upon receipt of a copy of the findings, summary of evidence, and recommendation, the board of governors may suspend or revoke the credential for the causes stated, or order the charges dismissed.

87333. Whenever the holder of any credential issued by the board of governors or the State Board of Education requests in writing that the credential held by him be revoked, the board of governors shall revoke such credential.

87334. Upon the becoming final of the conviction of the holder of any credential issued by the board of governors, or State Board of Education of a violation, or attempted violation, of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 232, both inclusive, 244, 245, 261 to 267, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to felony convictions, 503 and 504, or of Penal Code Section 272, the board of governors shall forthwith revoke the credential.

87335. Whenever the holder of any credential issued by the board of governors or the State Board of Education has been convicted of

any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011, the board of governors shall forthwith suspend the credential. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the board of governors shall forthwith terminate the suspension of the credential. When the conviction becomes final or when imposition of sentence is suspended, the board of governors shall forthwith revoke the credential.

87336. Whenever the holder of any credential issued by the board of governors or State Board of Education has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state, the board of governors shall forthwith suspend the credential. If the determination is reversed and the holder is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, the board of governors shall forthwith terminate the suspension of the credential. When the determination becomes final, the board of governors shall forthwith revoke the credential.

87337. County boards of education may revoke or suspend, for immoral or unprofessional conduct, evident unfitness for instructing, or persistent defiance of, and refusal to obey the laws regulating the duties of instructors the certificates granted by them.

87338. No certificate shall be revoked or suspended, except upon the written request of its holder, until after a hearing before the county board of education, and then only upon the affirmative vote of at least four members of the board.

87339. All charges of immoral or unprofessional conduct, of evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of instructors, shall be presented to the board of governors in writing and shall be verified under oath.

87340. Notice of the time of hearing and a full and complete copy of the charges shall be furnished to the accused at least 10 days before the hearing.

87341. The accused shall be given a fair and impartial hearing and shall have the right to be represented by counsel.

87342. The hearing shall be governed by and conducted under the rules of the board of governors.

87343. If any instructor employed by a board of community college trustees for a specified time, leaves the school before the expiration of the time, without the consent of the trustees, in writing, the instructor is guilty of unprofessional conduct, and the board of education of the county, upon receiving notice of the fact, may suspend the certificate of the instructor for the period of one year.

87344. Each city or city and county board of examination may for immoral and unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, recommend to the city or city and

county board of education, the revocation of any certificate previously granted by the board of education in the city or city and county.

87345. Upon the becoming final of the conviction of the holder of a certificate issued by a county board of education of a violation or attempted violation of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 232, both inclusive, 244, 245, 261 to 267, inclusive, 273a, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to grand theft, 503 and 504, or of Penal Code Section 272, the county board of education shall forthwith revoke the certificate.

87346. Whenever the holder of a certificate issued by a county board of education has been convicted of any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011, the county board of education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the board shall forthwith terminate the suspension of the certificate. When the conviction becomes final or when imposition of sentence is suspended the board shall forthwith revoke the certificate.

87347. Whenever the holder of a certificate issued by a county board of education has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state, the county board of education shall forthwith suspend the certificate. If the determination is reversed and the holder is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, the board shall forthwith terminate the suspension of the certificate. When the determination becomes final, the board shall forthwith revoke the certificate.

### CHAPTER 3. EMPLOYMENT

#### Article 1. General Provisions

87400. Governing boards of community college districts shall employ for positions requiring certification qualifications, only persons who possess the qualifications therefor prescribed by law. It shall be contrary to the public policy of this state for any person or persons charged, by said governing boards, with the responsibility of recommending such persons for employment by said boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, or national origin of said applicants for such employment.

87401. Governing boards of community college districts shall employ persons in public school service requiring certification qualifications as provided in this code.

87403. Notwithstanding any provision of law to the contrary, on and after January 1, 1975, the governing board of a community college district may employ an individual in any administrative or supervisory position, irrespective of whether or not such individual holds any supervisory or administrative credential; provided the individual so employed meets all of the following criteria:

- (1) He holds a valid teaching credential;
- (2) He has completed fifteen (15) years' service as an instructor, as defined in Section 84031, including ten (10) years of teaching service in the employ of the district which appoints him to an administrative or supervisory position; and
- (3) The last ten (10) years of service immediately preceding his appointment to an administrative or supervisory position were as an instructor of the natural sciences, the social sciences (other than education or educational methodology), the humanities, mathematics, and the fine arts.

87404. A student providing services in child development facilities as a nonteaching aide shall perform no instructional work; but shall, under the immediate supervision and direction of a certificated employee, perform noninstructional work which serves to assist certificated personnel in performance of teaching and administrative responsibilities.

87405. Governing boards of community college districts shall not employ or retain in employment persons in public school service who have been convicted of any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

87406. Governing boards of community college districts shall not employ or retain in employment any person in public school service who has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 5500), Chapter 1, Part 1.5, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

87407. The governing board of a community college district shall, as a condition to employment, require an applicant for a position requiring certification qualification to furnish a statement of the military service of the applicant and, if any was rendered, a copy of the discharge or release from service. If no such document is available, the governing board may accept other suitable evidence of the conditions under which the military service of the applicant was terminated.

87408. (a) When a community college district or a county

superintendent of schools wishes to employ a person in a position requiring certification qualifications and that person has not previously been employed in a position requiring certification qualifications in this state, the district or county superintendent shall require a medical certificate in such form as shall be prescribed by the board of governors showing that the applicant is free from any disabling disease unfitting the applicant to instruct or associate with students. The medical certificate shall be submitted directly to the governing board or county superintendent by a physician and surgeon licensed under the Business and Professions Code, a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, or a commissioned medical officer in the United States Air Force. The medical examination shall have been conducted not more than six months before the submission of the certificate and shall be at the expense of the applicant. A governing board or county superintendent may offer a contract of employment to an applicant subject to the submission of the required medical certificate. Notwithstanding Section 87031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee.

(b) The governing board of a community college district or a county superintendent of schools may require certificated employees to undergo a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code, or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, to determine that the employee is free from any communicable disease unfitting the applicant to instruct or associate with students. The periodic medical examination shall be at the expense of the district or county superintendent. The medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee.

(c) The board of governors shall adopt rules and regulations relating to the implementation and administration of this section.

(Amended by Stats 1976, Ch 1011 )

[ORIGINAL SECTION]

87408 (a) When a community college district or a county superintendent of schools wishes to employ a person in a position requiring certification qualifications and that person has not previously been employed in a position requiring certification qualifications in this state, the district or county superintendent shall require a medical certificate in such form as shall be prescribed by the board of governors showing that the applicant is free from any disabling disease unfitting the applicant

to instruct or associate with students The medical certificate shall be submitted directly to the governing board or county superintendent by a physician and surgeon licensed under the Business and Professions Code, a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, or a commissioned medical officer in the United States Air Force The medical examination shall have been conducted not more than six months before the submission of the certificate and shall be at the expense of the applicant A governing board or county superintendent may offer a contract of employment to an applicant subject to the submission of the required medical certificate. Notwithstanding Section 87031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee.

(b) The governing board of a community college district or a county superintendent of schools may require certificated employees to undergo a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code, or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, to determine that the employee is free from any communicable disease unfitting the applicant to instruct or associate with children The periodic medical examination shall be at the expense of the district or county superintendent The medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee

(c) The board of governors shall adopt rules and regulations relating to the implementation and administration of this section

**87409.** Persons in positions requiring certification qualifications may be elected for the next ensuing school year on and after the 15th day of March, and each person so elected shall be deemed reelected from year to year except as provided in Section 72422, Section 87210, Sections 87401 to 87452, inclusive, Sections 87454 to 87462, inclusive, Sections 87464 to 87466, inclusive, and Sections 87468 to 87480, inclusive.

At any time after the 31st day of December, any person not then employed in the community college district may be elected for the next ensuing school year to a position requiring certification qualifications.

(Added by Stats 1976, Ch 1011 )

**87410.** Any certificated employee not a regular employee who fails to signify his acceptance within 45 consecutive calendar days after notice of his election or employment has been given him, or mailed to him by United States registered mail with postage thereon prepaid at his last known place of address, by the clerk or secretary of the governing board of the community college district, shall be deemed to have declined the employment.

**87411.** If, without good cause, a regular employee of a community college district fails prior to July 1st of any school year to notify the governing board of the district of his intention to remain or not to remain in the service of the district, as the case may be, during the

ensuing school year if a request to give such notice, including a copy of this section, shall have been personally served upon him, or mailed to him by United States certified mail with return receipt requested to his last known place of address, by the clerk or secretary of the governing board of the community college district, not later than the preceding May 30th, he may be deemed to have declined employment and his services as an employee of the district may be terminated on June 30th of that year.

87412. The county superintendent of schools shall be given immediate notice in writing by the governing board of the district of the employment of persons for positions requiring certification qualifications. The notice shall include but not be limited to such data as may be prescribed by the board of governors, in regulations they are herewith authorized to adopt.

87413. Except as otherwise provided in Sections 87401 to 87424, inclusive, every contract or regular employee employed before July 1, 1947, shall be deemed to have been employed on the date upon which he first accepted employment in a probationary position.

In case two or more employees accepted employment on the same date, the governing board of the district shall determine the order of employment by lots drawn by the employees concerned or assigned at random by an independent auditing firm employed in accordance with Section 87414 or by other means as determined pursuant to the procedures described in Article 1 (commencing with Section 7100) of Chapter 2 of Part 5 of Division 1 of Title 1.

87414. Every contract or regular employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which he first rendered paid service in a probationary or contract position.

Every certificated employee who first rendered paid service on the same date shall participate in a single drawing to determine the order of employment except that in community college districts having an average daily attendance in excess of 15,000, an independent auditing firm may be employed to assign to such employees numbers at random which shall determine the order of employment. Any determination of an employee's order of employment pursuant to this section shall be made within 30 days of the date service was first rendered by the employee.

87415. The following general provisions shall apply regardless of date of employment:

The order once determined by lot shall be permanent, and shall be entered on the permanent records of the district.

Records showing date of employment, whether kept by the district or by the county, shall be accessible, on demand, to any certificated employee of the district or to his designated representative.

In the absence of records as to any of the matters referred to in the two preceding sections, the board, in accordance with evidence presented, shall determine the order of employment after giving employees a reasonable opportunity to present such evidence.

The governing board of every community college district shall establish the order of employment of all contract or regular employees of the district in the manner prescribed by Sections 87400 to 87424, inclusive, and shall keep a roster of same as a public record.

Whether or not such a roster is kept in other districts, the order of employment in all districts, when required, shall be determined as prescribed by Sections 87400 to 87424, inclusive.

The board shall have power and it shall be its duty to correct any errors discovered from time to time in its records showing the order of employment.

87416. When any school or part thereof shall have been transferred from one community college district to another, employment for any employees who transfer with said school or part thereof shall date from the time said employees first accepted employment (if before July 1, 1947) or rendered paid service (if after June 30, 1947) as contract employees in the district from which the school or part thereof and the said employees were transferred.

87417. When any certificated employee shall have resigned or been dismissed for cause and shall thereafter have been reemployed by the board, his date of employment shall be deemed to be the date on which he first accepted reemployment (if reemployed before July 1, 1947) or rendered paid service (if reemployed after June 30, 1947) after his reemployment.

When an employee's services are terminated for lack of enrollment or discontinuance of service or are otherwise interrupted in a manner declared by law not to constitute a break in service, his original order of employment shall stand.

87418. Nothing in Sections 72400, 72405, 72419, 72422, 72424, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Part 13 (commencing with Section 22000), Article 5 (commencing with Section 32340) of Chapter 3 of Part 19, of Division 1 of Title 1 and this part, shall be construed in such manner as to deprive any person of his rights and remedies in a court of competent jurisdiction on a question of law and fact.

87419. Nothing in Sections 72400, 72405, 72419, 72422, 72424, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Part 13 (commencing with Section 22000), Article 5 (commencing with Section 32340) of Chapter 3 of Part 19, of Division 1 of Title 1 and this part, shall be construed so as to repeal or negate any provisions concerning employees of community college districts contained in the charter of any city, county, or city and county, adopted and approved in conformity with Article XI of the Constitution of this state.

87420. All employments made under the provisions of Sections 72422, 87210, Sections 87401 to 87452, inclusive, Sections 87454 to 87462, inclusive, Sections 87464 to 87466, inclusive, Sections 87468 to

87480, inclusive, shall be subordinate to the right of the Legislature to amend or repeal Sections 72422, 87210, Sections 87401 to 87452, inclusive, Sections 87454 to 87462, inclusive, Sections 87464 to 87466, inclusive, Sections 87468 to 87480, inclusive, or any provision or provisions thereof at any time, and nothing herein contained shall be construed to confer upon any person employed pursuant to the provisions hereof a contract which will be impaired by the amendment or repeal of Sections 72422, 87210, Sections 87401 to 87452, inclusive, Sections 87454 to 87462, inclusive, Sections 87464 to 87466, inclusive, and Sections 87468 to 87480, inclusive, or of any provision or provisions thereof.

87421. Nothing in this code shall be construed as prohibiting the employment of persons in positions requiring certification qualifications for less than a full school year in temporary schools or classes.

87422. The governing board of a community college district, subject to the rules and regulations prescribed by the board of governors may enter into an agreement with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, or other district within the state, for the exchange and employment of regularly credentialed employees and employees of public schools of any foreign country, state, territory, or possession, or other district within this state. Any certificated person so employed as provided in this section shall be known as an "exchange certificated employee." No exchange shall be made without the consent of the employee to be exchanged.

Due consideration shall be given to the general qualifications and professional status of the exchange employee as compared to the general qualifications and professional status of the employee for whom exchanged. However, it shall not be a requirement that an exchange certificated employee be an instructor of the same subject or grade, or both, as the employee for whom exchanged. If the service authorized is other than teaching, it shall not be a requirement that the service be at the same grade level or that the service be exactly the same as the employee for whom exchanged.

No person may be employed as an exchange employee by a community college district in the state unless he holds the necessary valid credential or credentials issued by the board of governors authorizing him to serve in a position requiring certification qualifications in the community college district proposing to employ him for a period not to exceed one year, except that, by unanimous consent of the governing board, and of the certificated employees concerned, this period may be extended to two years. The board of governors may establish minimum standards for the credentials for exchange certificated employees, provided however, that no exchange certificated employee shall be required to pay any fee or other charge for the issuance to him of any necessary valid credential or credentials authorizing him to serve in a position requiring certification qualifications in any community college district in this state.

87423. Acceptance of any exchange position by an employee of a community college district in the state shall not affect his right to the permanent classification to which he is entitled, at the time of the acceptance, or any of his rights under the state teachers retirement salary provisions of this code, or under any local or district retirement plan, or system, and the time served in the exchange position shall be counted as time served in the service of the district in which he is employed immediately prior to acceptance of the exchange position in determining his status under the provisions of Sections 72400, 72405, 72419, 72422, 72424, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Part 13 (commencing with Section 22000), Article 5 (commencing with Section 32340) of Chapter 3 of Part 19, of Division 1 of Title 1, this part, and under the provisions of this code relating to state retirement salary, and under any local or district retirement plan.

87424. If the instructor from the district within the state who serves as an exchange instructor without the state and the governing board regularly employing him so agree, the district may pay his regular salary, making all deductions provided by law for retirement purposes, during the period of the exchange teaching. In such case the district shall not pay the salary of the exchange instructor from without the state, serving the district in exchange for its regular instructor.

In the event an instructor from a district within this state serving as an exchange instructor without the state and to whom the governing board of such district is paying the regular salary of such instructor as herein provided, is compelled to absent himself or herself from his or her duties because of injury, illness or quarantine, the governing board of the district within this state may pay the substitute employed to take the place of such instructor and shall deduct the amount so paid the substitute from the compensation of the instructor.

87425. The governing board of a community college district may, for the purposes of providing bilingual instruction, foreign language instruction, or cultural enrichment, in the colleges of the district, subject to the rules and regulations of the board of governors and conclude arrangements with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, for the hiring of bilingual instructors employed in public or private schools of any foreign country, state, territory, or possession. To be eligible for employment the instructor must speak English fluently. Any persons so employed pursuant to this section shall be known as a "sojourn certificated employee."

No person may be hired as a sojourn certificated employee by a community college district unless he holds the necessary valid credential or credentials issued by the board of governors

authorizing him to serve in a position requiring certification qualifications in the community college district proposing to employ him. Such person may be employed only for a period not to exceed two years, except that thereafter such period of employment may be extended from year to year for a total period of not more than five years upon verification by the employing district that termination of such employment would adversely affect an existing bilingual or foreign language program or program of cultural enrichment and that attempts to secure the employment of a certificated California instructor qualified to fill such position have been unsuccessful. The board of governors shall establish minimum standards for the credentials for sojourn certificated employees.

87426. Each person employed by the governing board of a community college district for a position requiring certification qualifications must, not later than 60 days after the date fixed by the governing board of the district for the commencement of his service, register in the manner prescribed by Section 87210 a valid certification document, issued on or before said date, authorizing him to serve in the position for which he was employed, and must, not later than 60 days after the renewal thereof, register the renewed certification document in the manner prescribed by Section 87210. If any person so employed is the holder of a California State University and Colleges, or state teachers college, diploma accompanied by the certificate of the board of governors, or of an educational or life diploma of this state, and has presented the same to, and has had his name recorded by, the county superintendent of schools of the county as heretofore provided by this code, such person shall be deemed to have registered such diploma under Section 87210.

87427. The Legislature hereby declares that it is contrary to the interest of this state and of the people thereof for any governing board or any person or persons charged by the governing board of a community college district with the responsibility of interviewing and recommending persons for employment in positions requiring certification qualifications to fail or refuse to do so for reason of the age or marital status of any applicant for such employment, except as otherwise provided in this code.

87428. No community college district may adopt or maintain any rule or regulation which requires a candidate for a position requiring certification qualifications to be a resident of the district or to become a resident of the district, or which requires that an employee maintain residency within the district; nor may a district grant any preferential treatment to candidates or employees because they are residents of the district.

The Legislature in enacting this section recognizes that the public school system of this state is the property of all its citizens, and that all qualified candidates for positions of employment with community college districts, regardless of residence, should be granted the opportunity to compete for and obtain such positions based solely on

merit and fitness.

87429. No person shall be employed as president of a community college of six or more instructors, including the president, unless he is the holder of a valid teacher's credential and either a valid school administration credential of the same grade as the community college to be administered or a valid standard supervision credential authorizing service as a president of a school of the same grade as the community college to be administered.

87430. A substitute president holding a valid instructor's credential of the same grade as the community college to be administered may be employed without meeting the requirements of Section 87429 to meet an emergency for not more than five months of any school year.

87431. No person is eligible to teach in any public school in the state, or to receive a certificate to instruct who has not attained the age of 18 years.

87432. No instructor holding a special certificate shall be employed to teach any subject not authorized in the certificate.

87433. The qualifications of a home instructor shall be a valid instructing credential issued by the Board of Governors of the California Community Colleges and special fitness to perform the duties of a home instructor.

87434. The qualifications of a home instructor of physically handicapped students shall be a valid teaching credential or a credential authorizing the teaching of exceptional students in an area of specialized preparation issued by the Board of Governors of the California Community Colleges.

87435. No person shall be employed as a librarian in any community college district, unless he holds a valid credential of proper grade authorizing service as a librarian, or a valid teaching credential issued by the Board of Governors of the California Community Colleges if he has completed the specialized area of librarianship.

87436. Any librarian when employed full time as librarian or serving full time, partly as librarian and partly as an instructor, shall rank as an instructor.

87437. No one shall be employed to supervise the work of instructors for more than half time during any school week unless he is the holder of a valid instructor's certificate authorizing him to teach in the schools and classes in which he is to supervise instruction and a valid supervision certificate.

87438. The qualifications of supervisors of health shall be as provided in Sections 87440 to 87445, inclusive.

87439. For the purposes of Sections 87440 through 87445, inclusive, "standard designated services credential with a specialization in health" and "services credential with a specialization in health" includes a community college health services credential when the service is provided in grades 13 and 14.

87440. The qualifications for a physician employed to serve on a

half-time or greater than half-time basis shall be a valid certificate to practice medicine and surgery issued by the State Board of Medical Examiners or Board of Osteopathic Examiners and either a services credential with a specialization in health or a valid credential issued prior to November 23, 1970. The qualifications for a physician employed for less than half time shall be a valid certificate to practice medicine and surgery issued by the State Board of Medical Examiners. Any community college district may employ and compensate physicians meeting the foregoing qualifications for the performance of medical services for the district and shall provide liability insurance coverage for the period of his employment.

As used in this section "medical services" includes, but is not limited to, any medical services required to be performed while required to be in attendance at community college athletic contests or meets.

87441. The qualifications for a psychologist or social worker are a valid certificate issued by the appropriate California agency authorized by law to certify such persons and a services credential with a specialization in health. Any community college district may employ and compensate psychologists and social workers meeting the foregoing qualifications.

87442. The qualifications for a dentist are a valid certificate issued by the Board of Dental Examiners and a services credential with a specialization in health or a valid credential issued prior to November 23, 1970. Any community college district may employ and compensate dentists meeting the foregoing qualifications.

87443. The qualifications for a dental hygienist shall be a valid certificate issued by the Board of Dental Examiners of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

87444. The qualifications for a nurse shall be a valid certificate of registration issued by the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

The services credential with a specialization in health authorizing service as a school nurse shall not authorize teaching services unless the individual holds a baccalaureate degree, or its equivalent, and has completed a fifth year of preparation.

87445. The qualifications for an optometrist are a valid certificate issued by the State Board of Optometry and a services credential with a specialization in health or a credential issued prior to November 23, 1970. Any community college district may employ and compensate optometrists meeting the foregoing qualifications.

87446. The qualifications for an audiometrist working under the direction of health services personnel pursuant to Section 76420 shall be a valid certificate or license issued by, or valid registration with,

the California state agency authorized by law to issue the certificate or license, or to effect the registration, required for performance of the service.

87447. The president of any community college may employ when so directed by the governing board of the community college district, special lecturers well qualified in their subjects to speak before classes and assemblies of students of the school, without the lecturer being required to hold a teacher's credential or certificate.

No such lecturer may be employed by the superintendent or president of any school for more than four lectures in any term.

87449. When an instructor of classes for adults serves sufficient probationary time as provided in Section 87468 to be eligible for election to permanent classification in that district, his tenure shall be for such service as is equivalent to the average number of hours per week which he has served during his probationary years. In no case shall such an employee be classified as permanent for more than one full-time assignment. The service for which such a person has acquired tenure may be reduced in conformity with Sections 87743 and 87744.

Notwithstanding any other provision to the contrary, in a district which has, or in a district which is one of two or more districts governed by governing boards of identical personnel which have a combined, average daily attendance of 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding fiscal year, no person who is assigned 10 hours or less a week in adult classes in such a district shall be eligible for election to permanent classification in such district on account of such assignment in adult classes.

87450. No employee of a community college district or districts, in which the average daily attendance of all said districts combined is in excess of 200,000, governed by the same governing board shall hereafter acquire permanent certificated tenure or permanent noncertificated status, or a combination of such tenure and status, for more than one full-time position. Any employee who hereafter acquires any combination of permanent certificated tenure or permanent noncertificated status or both which exceeds that for one full-time position shall have a choice which tenure or status to retain so long as that retained does not exceed one full-time position.

It is the intent of this section that an employee holding permanent certificated tenure or permanent noncertificated status for a full-time position may not have permanent tenure or status protection for any additional time in either a certificated or a noncertificated position under any such community college district governed by the same governing board.

87451. Nothing in Section 87468, shall be construed to give regular classification to a person in the adult school who is already classified as a regular employee in the day school. In case an instructor obtains permanent classification in the evening school and later is eligible for the same classification in the day school by reason

of having served the contract period therein, he shall be given his choice as to which he shall take.

Notwithstanding any other provision to the contrary, service in the evening school shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee in the day school, except service in the evening school rendered by a person rendering services in the day school who is directed or specifically requested by the community college district to render services in the evening school either in addition to, or instead of, rendering service in the day school. Service in the day school shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee in the evening school, except service in the day school rendered by a person rendering services in the evening school who is directed or specifically requested by the community college district to render service in the day school either in addition to, or instead of, rendering service in the evening school.

87452. Nothing in Sections 87449 to 87451, inclusive, shall be construed as affecting the classification of any employee as it existed on September 13, 1941.

87453. No regular employee of a community college district shall be dismissed without his consent or deprived of his classification as a regular employee of the district when the district does not have sufficient funds to pay his salary.

87454. A regular employee when advanced from an instructing position to an administrative or supervisory position, or assigned any special or other type of work, or given special classification or designation requiring certification qualifications, shall retain his classification as a classroom instructor.

87455. (a) A regular employee not qualified to render service as a classroom instructor, when advanced to an administrative or supervisory position, or assigned any special or other type of work, or given special classification or designation requiring certification qualifications, shall retain his permanent classification for the performance of the type of service for which he was qualified prior to such advancement, assignment, or special classification or designation.

(b) If an employee is authorized to render service in more than one type of position for which certification qualifications are required, either by virtue of his possession of one certification document authorizing service in two or more of such positions, or by virtue of his possession of separate certification documents authorizing service in two or more such positions, or any combination thereof, he shall, upon satisfying all other requirements prescribed by law, acquire permanent status as follows:

(1) If he is authorized to render service as a classroom instructor, he shall acquire regular status as a classroom instructor.

(2) If he is not authorized to render service as a classroom instructor, he shall acquire regular status below the administrative or

supervisory level as a staff employee with multiple qualifications. His right to serve in one or more of the positions for which he is qualified to serve shall be subject to the power of assignment of the community college district governing board.

87456. A regular employee, as specified in Section 87455, when advanced to an administrative or supervisory position requiring certification qualifications, or assigned any special or other type of work requiring certification qualifications, or given special classification or designation requiring certification qualifications, shall retain his regular classification as specified in Section 87455.

If such a person is advanced to an administrative or supervisory position not requiring certification qualifications, is assigned any special or other type of work not requiring certification qualifications, or is given special classification or designation not requiring certification qualifications, his right to retain regular classification shall be governed by the provisions of Article 3 (commencing with Section 87060) of Chapter 1 of this part.

87457. Whenever a person employed in an administrative or supervisory position requiring certification qualifications is transferred to a teaching position, the governing board of the community college district shall give such employee, when requested by him, a written statement of the reasons for such transfer.

87458. A person employed in an administrative or supervisory position requiring certification qualifications upon completing a contract period, including any time served as a classroom instructor, in the same district, shall, in a district having an average daily attendance of 250 or more students, be classified as and become a regular employee as a classroom instructor. In a district having an average daily attendance of less than 250 students, he may be so classified.

87459. Notwithstanding the provisions of Section 87458 to the contrary, the governing board of any community college district shall, with respect to each person who is employed in an administrative or supervisory position requiring certification qualifications under a contract of employment providing a four-year term of employment and who either has not been previously employed by the district in such position or has been employed in such position but not under such a four-year contract, determine prior to May 15 of the third year under such four-year contract of employment whether to grant or deny the person regular classification as a classroom instructor. If it grants such classification, the person shall be classified as and become a regular employee as a classroom instructor.

87460. A person employed in an administrative or supervisory position by more than one district shall be given regular classification in whichever district he may select for the regular classification. Other regular classification shall be given to such an employee in a district situated wholly or partly within a city or city and county

where the charter of the city or city and county provides for other classification.

87461. Any certificated employee having permanent classification in a district, who is granted a leave of absence and transfers to another district which is under the supervision of the same chief administrative officer or district superintendent as the district from which the employee is on leave, may acquire regular classification in the district to which he transferred if he is employed for a second year in that district, at which time his permanent classification in the district from which he transferred shall expire.

87462. A permanent employee of a high school district who was classified as such while serving in a community college maintained by the high school district shall, if the high school district is included in a community college district, be classified as a regular employee of the community college district if employed by the community college district in a position requiring certification qualifications.

87463. Any employee in a position requiring certification qualifications of a community college district who instructs in a four-year state institution of higher education maintained on the campus of the community college pursuant to contracts entered into between the Trustees of the California State University and Colleges and said district, shall, without regard to subject or grade taught, whether of community college level or higher, acquire and retain all rights to employment in said district the same as though said employee were teaching exclusively in a community college of the said district; provided, that nothing in this section shall be construed to prevent said employee from resigning from employment in said district pursuant to the provisions of Section 87730.

87464. The division, uniting, unification, or consolidation of any community college district or districts, or any change in district boundaries or organization, shall not affect the classification of certificated employees already employed by any district affected. Such employees shall have the same status with respect to their classification by the district, including time served as contract employees of the district after the division, uniting, unification, or consolidation, or change in district boundaries or organization as they had prior thereto. If such division, uniting, unification, or consolidation, or change in district boundaries or organization results in the school or other place in which any such employee is employed being maintained by another district, any such employee, if a regular employee of the district which formerly maintained such school or other place of employment, shall be employed as a regular employee of the district which thereafter maintains the school or other place of employment, unless such employee elects to continue in the employ of the first district. If such employee is a contract employee of the district which formerly maintained such school or other place of employment, he shall be employed by the district which thereafter maintains the school or other place of employment, unless

such contract employee is terminated by such district pursuant to Section 87740 or 87743, and, if not so terminated, his status with respect to classification by such district shall be the same as it would have been had the school or other place of employment continued to be maintained by the district which formerly maintained it. As used in this paragraph, "the school or other place in which any such employee is employed" and all references thereto, includes, but is not limited to, the school services or school program which, as a result of any division, uniting, unification, or consolidation of a district, will be provided by another district, irrespective of whether any particular building or buildings in which such schoolwork or school program was conducted is physically located in the new district and irrespective of whether any new district resulting from such division elects to provide for the education of its students by contracting with another school district until such time as the new district constructs its own facilities.

As used in the preceding paragraph of this section "any change in district boundaries or organization" includes, but is not limited to, the formation of a community college district.

In case the uniting, or consolidation of two or more community college districts results in a district in which, under the provisions of this code then in effect, the certificated employees are entitled to contract or regular classification, the employees of the union, unified, or consolidated district, or of the district formed by uniting two or more community college districts shall be given such classification on the same basis as certificated employees in other districts of like average daily attendance.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

87464. The division, uniting, unionization, unification, or consolidation of any community college district or districts, or any change in district boundaries or organization, shall not affect the classification of certificated employees already employed by any district affected. Such employees shall have the same status with respect to their classification by the district, including time served as contract employees of the district after the division, uniting, unionization, unification, or consolidation, or change in district boundaries or organization as they had prior thereto. If such division, uniting, unionization, unification, or consolidation, or change in district boundaries or organization results in the school or other place in which any such employee is employed being maintained by another district, any such employee, if a regular employee of the district which formerly maintained such school or other place of employment, shall be employed as a regular employee of the district which thereafter maintains the school or other place of employment, unless such employee

elects to continue in the employ of the first district. If such employee is a contract employee of the district which formerly maintained such school or other place of employment, he shall be employed by the district which thereafter maintains the school or other place of employment, unless such contract employee is terminated by such district pursuant to Section 87740 or 87743, and, if not so terminated, his status with respect to classification by such district shall be the same as it would have been had the school or other place of employment continued to be maintained by the district which formerly maintained it. As used in this paragraph, "the school or other place in which any such employee is employed" and all references thereto, includes, but is not limited to, the school services or school program which, as a result of any division, uniting, unionization, unification, or consolidation of a district, will be provided by another district, irrespective of whether any particular building or buildings in which such schoolwork or school program was conducted is physically located in the new district and irrespective of whether any new district resulting from such division elects to provide for the education of its students by contracting with another school district until such time as the new district constructs its own facilities.

As used in the preceding paragraph of this section "any change in district boundaries or organization" includes, but is not limited to, the formation of a community college district.

In case the uniting, or consolidation of two or more community college districts results in a district in which, under the provisions of this code then in effect, the certificated employees are entitled to contract or regular classification, the employees of the union, unified, or consolidated district, or of the district formed by uniting two or more community college districts shall be given such classification on the same basis as certificated employees in other districts of like average daily attendance.

87465. Section 87464 shall apply to any division, uniting, unification, or consolidation of community college districts, or change in community college district boundaries or organization, made at any time subsequent to January 1, 1931, to the same extent as changes made subsequent to April 10, 1937, and the provisions hereof shall be retroactive to January 1, 1931.

Nothing in this section or in Sections 87464 shall be construed to nullify or in any manner affect the classification of any employee of a district now or hereafter classified as a regular employee thereof by operation of this or any other provision of law.

(Amended by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

87465 Section 87464 shall apply to any division, uniting, unionization, unification, or consolidation of community college districts, or change in community college district boundaries or organization, made at any time subsequent to January 1, 1931, to the same extent as changes made subsequent to April 10, 1937, and the provisions hereof shall be retroactive to January 1, 1931.

Nothing in this section or in Sections 87464 shall be construed to nullify or in any manner affect the classification of any employee of a district now or hereafter classified as a regular employee thereof by operation of this or any other provision of law.

87466. Except in districts situated wholly or partly within the boundaries of a city or city and county where the charter of the city or city and county provides an age at which employees, including certificated employees of the districts, shall be retired, when a regular or contract employee reaches the age of 65 years, his regular or contract classification shall cease and thereafter employment shall be from year to year at the discretion of the governing board.

87467. The retirement of any employee of a community college district under the provisions of any retirement law shall automatically effect the dismissal of the employee from the employ of the district at the end of the current school year.

87468. A contract employee who, in any one school year, has served for at least 75 percent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year. In case of evening schools, 75 percent of the number of days the evening schools of the district are in session shall be deemed a complete school year.

87469. Notwithstanding Section 87468, a contract employee employed by a community college district who, in any school year consisting of two semesters or three quarters, has served more than 75 percent of the number of hours considered as a full-time assignment for regular employees having similar duties in the community colleges of the district in which he is employed, shall be deemed to have served a complete school year.

87470. The governing board of any community college district may employ persons possessing an appropriate credential as instructors in classes conducted under contract with public or private agencies, or other categorically funded projects of indeterminate duration. The terms and conditions under which such persons are employed shall be mutually agreed upon by the employee and the governing board and such agreement shall be reduced to writing. Service pursuant to this section shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of a community college district unless (1) such person has served pursuant to this section, for at least 75 percent of the number of days the regular schools of the district by which he is employed are maintained, and (2) such person is subsequently employed as a contract employee in a position requiring certification qualifications. Such persons may be employed for periods which are less than a full school year and may be terminated at the expiration of the contract or specially funded project without regard to other requirements of this code respecting the termination of contract or regular employees.

This section shall not be construed to apply to any regularly credentialed instructor who has been employed to instruct in the regular educational programs of the district as a contract employee before being subsequently assigned to any one of these programs.

87471. Service by a person as an instructor in classes conducted

at regional occupational centers or programs, as authorized pursuant to Section 52301, shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of a community college district.

This section shall not be construed to apply to any regularly credentialed instructor who has been employed to instruct in the regular educational programs of the district and subsequently assigned as an instructor in regional occupational centers or programs, nor shall it affect the status of regional occupational center instructors classified as regular or contract at the time this section becomes effective.

87472. Service by a person under a provisional credential shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of a community college district.

87473. Service under a credential authorizing service only as an instructor of basic military drill in community college cadet companies established under Chapter 1 (commencing with Section 500) of Part 2 of Division 2 of the Military and Veterans Code shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of a community college district.

87474. Nothing in Sections 87449 to 87452, inclusive, Sections 87454 to 87462, inclusive, Sections 87464 to 87466, inclusive, and Sections 87468 to 87480, inclusive, shall be construed as permitting a certificated employee to acquire regular classification with respect to employment in a summer school maintained by a community college district, and service in connection with any such employment shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of the district. The provisions of this section do not constitute a change in, but are declaratory of, the preexisting law.

87475. If an employee of a community college district has served as a contract employee of the district in a position requiring certification qualifications, for one complete school year, and in the year immediately preceding the service as contract employee has served as a substitute employee, or as a temporary and contract employee, serving in both capacities during the same school year in the schools of the district, at least 75 percent of the number of days the regular schools of the district were maintained, the governing board of the district may count the year of employment as a temporary or as a temporary and contract employee as one year of the probationary period which he is required by law to serve as a condition to being classified as a regular employee of the district.

87476. Governing boards of community college districts shall classify as contract employees, those persons employed in positions requiring certification qualifications for the school year, who have not been classified as regular employees or as temporary employees.

87477. The classification shall be made at the time of employment

and thereafter in the month of July of each school year. At the time of initial employment during each academic year, each new certificated employee of the community college district shall receive a written statement indicating his employment status and the salary that he is to be paid. If a community college district hires a certificated person as a temporary employee, the written statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. If a written statement does not indicate the temporary nature of the employment, the certificated employee shall be deemed to be a contract employee of the community college district, unless employed with regular status.

87478. Except as provided in Sections 87481 and 87482, governing boards of community college districts shall classify as temporary employees those persons employed in positions requiring certification qualifications, to fill positions of regularly employed persons absent from service.

After September 1 of any school year, the governing board of a community college district may employ, for the remainder of the school year, in temporary status any otherwise qualified person who consents to be so employed in a position for which no regular employee is available, including persons retired for service under the State Teachers' Retirement System. Inability to acquire the services of a qualified regular employee shall be demonstrated to the satisfaction of the board of governors.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a position requiring certification qualifications, be classified by the governing board as a contract employee and the previous year's employment as a temporary employee shall be deemed one year's employment as a contract employee for purposes of acquiring regular status.

87479. (Repealed by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

87479. Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in such school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year

Any such employee shall be reemployed for the following school year to fill any vacant positions in the school district for which the employee is certified and qualified to serve

For purposes of this section, "qualified to serve" shall be defined to mean the possession of an appropriate credential plus completion of appropriate academic preparation or experience in the subject matter in which the vacant position occurs.

For purposes of this section, "vacant position" means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

Any employee classified as a substitute or temporary employee who has rendered the service required to qualify under this section but who has not been reemployed due to a lack of a vacant position shall be reemployed as a substitute or temporary employee for the following school year.

In any district in which appointments are made from eligible lists established by examination, special eligible lists shall be established at the end of each school year which consist of the names of those employees who met the requirements of this section. Such lists shall be in rank order based on the final scores established by examination. Such lists shall be valid for at least two school years. Offers for appointments to probationary status during the ensuing school year shall be made from such special eligible lists established by examination, provided, however, permanent or probationary employees terminated during the preceding 39 months pursuant to Section 87743, shall be given priority in employment over persons on such special eligible lists.

Those employees classified as substitutes, and who are employed to serve in an on-call status to replace absent regular employees on a day-to-day basis shall not be entitled to the benefits of this section.

Permanent and probationary employees subjected to a reduction in force pursuant to Section 87743 shall, during the period of preferred right to reappointment, have prior rights to any vacant position in which they are qualified to serve superior to those rights hereunder afforded to temporary and substitute personnel who have become probationary employees pursuant to the provisions of this section.

**87480.** Governing boards of community college districts shall classify as temporary employees those persons requiring certification qualifications, other than substitute employees, who are employed to serve from day to day during the first three school months of any school term to instruct temporary classes not to exist after the first three school months of any school term or to perform any other duties which do not last longer than the first three school months of any school term, or to instruct in special day and evening classes for adults or in schools of migratory population for not more than four school months of any school term. If the classes or duties continue beyond the first three school months of any school term or four school months for special day and evening classes for adults, or schools for migratory population, the certificated employee, unless a regular employee, shall be classified as a contract employee. The school year may be divided into not more than two school terms for

the purposes of this section.

In any district, the governing board may, to prevent the stoppage of district business when an actual emergency arises and persons are not immediately available for contract classification, make an appointment to a position on a temporary basis for a period not to exceed 20 working days. The person so appointed shall be deemed to be a temporary employee who is employed to serve from day to day. Service by a person in such an appointment on a temporary basis shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of a community college district.

87481. Notwithstanding the provisions of Sections 87478 and 87480, the governing board of a community college district may employ as an instructor, for a complete school year, but not less than one semester during a school year unless the date of rendering first paid service begins during the second semester and prior to March 15th, any person holding appropriate certification documents, and may classify such person as a temporary employee. The employment of such persons shall be based upon the need for additional certificated employees during a particular semester or year because a certificated employee has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant position requiring certification qualifications, be classified by the governing board as a contract employee and the previous year's employment as a temporary employee shall be deemed one year's employment as a contract employee for purposes of acquiring permanent status.

For purposes of this section "vacant position" means a position in which the employee is qualified to serve and which is not filled by a regular or contract employee. It shall not include a position which would be filled by a regular or contract employee except for the fact that such employee is on leave.

87482. Notwithstanding the provisions of Section 87480, the governing board of a community college district may employ as an instructor in grade 13 or grade 14, for a complete school year but not less than a complete semester or quarter during a school year, any person holding appropriate certification documents, and may classify such person as a temporary employee. The employment of such persons shall be based upon the need for additional certificated employees for grades 13 and 14 during a particular semester or quarter because of the higher enrollment of students in those grades during that semester or quarter as compared to the other semester or quarter in the academic year, or because a certificated employee has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of

persons so employed, to that need, as determined by the governing board.

Such employment may be pursuant to contract fixing a salary for the entire semester or quarter.

No person shall be so employed by any one district for more than two semesters or quarters within any period of three consecutive years.

Notwithstanding any other provision to the contrary, any person who is employed to teach adult or community college classes for not more than 60 percent of the hours per week considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee under the provisions of Section 87604.

87483. Notwithstanding any other provision, the governing board of a community college district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 or Section 20815 of the Government Code:

(a) The employee must have reached the age of 55 prior to reduction in workload.

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(d) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(e) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position.

(g) This section shall not be applicable to persons who are administrators in community colleges.

87484. In the event a regular employee of a community college district has tenure as a full-time regular employee of the district, any assignment or employment of such employee in addition to his full-time regular assignment may be terminated by the governing board of the district at any time.

(Amended by Stats 1976, Ch 1011 )

## [ORIGINAL SECTION]

87484 In the event a regular employee of a school district has tenure as a full-time regular employee of the district, any assignment or employment of such employee in addition to his full-time regular assignment may be terminated by the governing board of the district at any time

87485. Except as provided in Section 87744, any contract or agreement, express or implied, made by any employee to waive the benefits of this chapter or any part thereof is null and void.

Notwithstanding provisions of this or any other section of this code, governing boards of community college districts may employ persons in positions requiring certification qualifications on less than a full-time basis.

87486. The governing board of any community college district may employ or engage as an independent contractor a qualified person to serve as limited-term or part-time reader assistant in connection with instruction in composition and writing, and in mathematics, to instructors. Any person employed as a reader shall not be deemed to be employed in a position requiring certification qualifications, and, unless otherwise determined by the governing board, shall not be subject to the provisions of Chapter 4 (commencing with Section 88000) of Part 51 of this division. The governing board may pay such hourly or unit compensation rates as it deems proper for the services rendered. It is the intent of the Legislature in enacting this section not to authorize an increase in the number of students who may be assigned to any class, but to provide an opportunity for improvement in the quality of student writing and mathematics abilities through more frequent assignments of compositions and more work in mathematics made possible by the employment of suitably trained persons to assist the instructor in the careful marking and analysis of the students' work. Furthermore, the means adopted for employing persons as reader assistants is not intended as an encroachment upon the merit system of public employment, but is adopted as the most practical arrangement, since most work of such nature will be done as part-time work and in the home.

(Amended by Stats 1976, Ch 1011 )

## [ORIGINAL SECTION]

87486. The governing board of any district may employ or engage as an independent contractor a qualified person to serve as limited-term or part-time reader assistant in connection with instruction in composition and writing, and in mathematics, to instructors. Any person employed as a reader shall not be deemed to be employed in a position requiring certification qualifications, and, unless otherwise determined by the governing board, shall not be subject to the provisions of Chapter 4 (commencing with Section 88000) of Part 51 of this division. The governing board may pay such hourly or unit compensation rates as it deems proper for the services rendered. It is the intent of the Legislature in enacting this section not to authorize

an increase in the number of students who may be assigned to any class, but to provide an opportunity for improvement in the quality of student writing and mathematics abilities through more frequent assignments of compositions and more work in mathematics made possible by the employment of suitably trained persons to assist the instructor in the careful marking and analysis of the students' work. Furthermore, the means adopted for employing persons as reader assistants is not intended as an encroachment upon the merit system of public employment, but is adopted as the most practical arrangement, since most work of such nature will be done as part-time work and in the home.

87487. The governing board of any community college district may employ any qualified person who possesses a temporary certificate to serve as a teacher assistant in a program conducted in cooperation with a California teacher training institution. No person shall be so employed unless he is enrolled as a student in a cooperating California teacher training institution at the time the service is rendered. Service by a person under a teacher assistant certificate shall not be included in computing the service required as a prerequisite to the attainment of, or eligibility to, classification as a permanent employee of a district. The governing board may make such payments as it deems proper for the services rendered.

Any person employed under this section shall not be subject to the provisions of Chapter 1 (commencing with Section 22000) of Part 13 of Division 1 of Title 1.

## Article 2. Employment of Certificated Community College Personnel

87600. The provisions of this article govern the employment of persons by a district to serve in positions for which certification qualifications are required and establish certain rights for such employees. Other provisions of the law which govern the employment of persons in positions requiring certification qualifications by a community college district or establish rights and responsibilities for such persons shall be applied to persons employed by community college districts in a manner consistent with the provisions of this article.

87601. For the purposes of this article:

(a) "Contract employee" means an employee of a district who is employed on the basis of a contract in accordance with the provisions of Section 87605 or subdivision (b) of Section 87608.

(b) "District" means a community college district.

(c) "Positions requiring certification qualifications" are those positions which provide the services for which certifications have been established in this code.

(d) "Regular employee" means an employee of a district who is employed in accordance with the provisions of subdivision (c) of

Section 87608 or Section 87609.

(e) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter.

87602. For the purposes of other provisions of law:

(a) A contract employee is a probationary employee.

(b) A regular employee is a permanent employee.

87603. The provisions of this article do not apply to the employment of persons as a superintendent, assistant superintendent, or deputy superintendent of a community college district or as a president of a community college employed by contract pursuant to Section 87621.

87604. The governing board of a community college district shall employ each certificated person as one of the following: contract employee, regular employee, or temporary employee.

87605. The governing board of a district shall employ persons to serve in positions requiring certification qualifications for the first academic year of his employment or portion thereof by contract. Any person who, at the time an employment contract is offered to him by the district, is neither a regular employee of the district nor a contract employee then serving under a second contract entered into pursuant to Section 87608 shall be deemed to be employed for "the first academic year of his employment or a portion thereof."

87606. An employment contract shall contain such terms and conditions as the governing board and the proposed employee shall agree upon and as are consistent with the provisions of the law.

87607. Before making a decision relating to the continued employment of a contract employee, the following requirements shall be satisfied:

(a) The employee has been evaluated in accordance with the evaluation standards and procedures established in accordance with the provisions of Article 4 (commencing with Section 87660) of this chapter, a fact determined solely by the governing board.

(b) The governing board has received statements of the most recent evaluations.

(c) The governing board has received recommendations of the superintendent of the district and, if the employee is employed at a community college, the recommendations of the president of that community college.

(d) The governing board has considered the statement of evaluation and the recommendations in a lawful meeting of the board.

87608. If a contract employee is working under his first contract, the governing board, at its discretion and not subject to judicial review except as expressly provided herein, shall elect one of the following alternatives:

(a) Not enter into a contract for a second academic year.

(b) Enter into a contract for a second academic year.

(c) Employ the contract employee as a regular employee for all

subsequent academic years.

87609. If a contract employee is employed under his second consecutive contract entered into pursuant to Section 87608, the governing board, at its discretion and not subject to judicial review except as expressly provided herein, shall elect one of the following alternatives:

(a) Employ the contract employee as a regular employee for all subsequent academic years.

(b) Not employ the contract employee as a regular employee.

87610. The governing board shall give written notice of its decision under Section 87608 and the reasons therefor to the employee on or before March 15 of the academic year covered by the existing contract. Failure to give the notice as required to a contract employee under his first contract shall be deemed an extension of the existing contract without change for the following academic year. The governing board shall give written notice of its decision under Section 87609 and the reasons therefor to the employee on or before March 15 of the academic year covered by the existing contract. Failure to give the notice as required to a contract employee under his second consecutive contract shall be deemed a decision to employ him as a regular employee for all subsequent academic years.

87611. If the contract employee objects to the decision of the governing board made pursuant to Section 87609, he may request a hearing. The hearing shall be requested and conducted, and the proposed decision shall be prepared, in accordance with the provisions of Section 87740.

87612. Until terminated in accordance with provisions of law, a part-time regular employee shall be assigned, and compensated, for a period of service less than 75 percent of the number of days the colleges of the district are maintained during each academic year. The governing board of the employing district may establish an assignment for any period of days less than 75 percent.

At its discretion, the governing board of the employing district may assign and compensate a part-time regular employee for a period of service of 75 percent or more of the number of days the colleges of the district are maintained during each academic year. Such an assignment shall not change the employee's classification to that of full-time regular employee unless an assignment of this type is made for two consecutive academic years.

### Article 3. Certificated Employees

87620. The provisions of this article apply to all persons employed by a community college district in positions requiring certification qualifications.

87621 (Repealed by Stats. 1976, Ch 1011 )

[ORIGINAL SECTION]

87621 A superintendent, assistant superintendent, or deputy superintendent of a community college district shall be employed, and the president of a community

college may be employed, by the governing board of the district by a contract not to exceed four years. The contract may be extended for periods of no more than four years at the discretion of the governing board. The dismissal and imposition of penalties on a superintendent or president employed by contract pursuant to this section shall be in accordance with the terms of the contract of employment

**87622.** The employment, rights, responsibilities, dismissal, imposition of penalties for persons employed by a community college district in positions requiring certification qualifications shall be governed by the provisions of Article 2 (commencing with Section 87600), and Article 4 (commencing with Section 87660) of this chapter, with the exception given in Section 87621. The employment of certificated employees by a community college district shall otherwise be governed as provided by law and in a manner consistent with the provisions of Articles 2 and 4 and with the provisions of this article (hereinafter referred to in this article, collectively, as "this act").

Whenever in Sections 87733 to 87739, inclusive, the term "Commission on Professional Competence" is used, it shall be deemed for the purposes of this chapter to mean either "arbitrator" or "hearing officer," whichever is the case.

The provisions of this act shall take precedence, for the purposes of certificated persons employed by a community college district, over any other act enacted by the Legislature at any session which, explicitly or implicitly, would result in certificated persons employed by a community college district being governed by provisions inconsistent with the provisions of this act.

**87623.** The enactment of this act shall not be interpreted in any way to cause certificated employees of the community college districts who are permanent employees as of the operative date of this act to lose their rights as permanent employees. After September 1, 1972, they shall be, and have all the rights of, regular employees under the provisions of this act.

**87624.** Certificated employees of community college districts who are probationary employees on September 1, 1972 shall be classified in accordance with the following:

(a) A probationary employee who has been employed for, and served on, at least 75 percent of the days during which the colleges of the district maintained classes during the academic year (as defined in Section 87601) immediately preceding the operative date of this act shall be classified as a regular employee for the 1972-1973 fiscal year and all fiscal years thereafter or a contract employee under his second contract for the 1972-1973 fiscal year. The classification shall be made at the sole discretion of the governing board no later than the 30th day after this act becomes operative. The governing board of the district shall give written notice to each employee of his classification. The notice shall be delivered no later than 10 days after the classification is made.

(b) A probationary employee who has not met the requirements set forth in subdivision (a) shall be classified as a contract employee

under his first contract for the 1972-1973 fiscal year. The governing board shall give each such employee written notice of his classification no later than the 10th day following September 1, 1972.

87625. Substitute and short-term employees shall be employed, beginning on September 1, 1972, as temporary employees.

87626. Rules and regulations adopted in relation to the evaluation process shall assure that the standards and procedures of the evaluation process in each district will be fair and in accordance with the intent of this act and that the evaluation processes of all of the districts are basically similar in substance and intent. These regulations shall permit and encourage a district governing board to establish evaluation procedures and standards which meet the particular needs of that district.

#### Article 4. Evaluations

87660. The provisions of this article govern the evaluation of, the dismissal of, and the imposition of penalties on, certificated personnel employed by a community college district. Other provisions of this code which govern the evaluation of, dismissal of, and the imposition of penalties on, certificated personnel employed by a community college district in a manner consistent with the provisions of this article.

87661. For the purposes of this article:

(a) "Contract employee" means an employee of a district who is employed on the basis of a contract in accordance with the provisions of Section 87605 or subdivision (b) of Section 87608.

(b) "District" means a community college district.

(c) "Positions requiring certification qualifications" are those positions which provide the services for which certifications have been established in this code.

(d) "Regular employee" means an employee of a district who is employed in accordance with the provisions of subdivision (c) of Section 87608 or Section 87609.

(e) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter.

87662. The provisions of this article do not apply to persons employed as a superintendent, assistant superintendent, or deputy superintendent of a community college district or as a president of a community college employed by contract pursuant to Section 87621.

87663. Contract employees shall be evaluated at least once in each academic year. Regular employees shall be evaluated at least once in every two academic years.

Whenever an evaluation is required of a certificated employee by a community college district, the evaluation shall be conducted in accordance with the standards and procedures established by the rules and regulations of the governing board of the employing district.

87664. The governing board of each district in consultation with the faculty shall adopt rules and regulations establishing the specific procedures for the evaluation of its contract and regular employees on an individual basis and setting forth reasonable but specific standards which it expects its certificated employees to meet in the performance of their duties. Such procedures and standards shall be uniform for all contract employees of the district with similar general duties and responsibilities and shall be uniform for all regular employees of the district with similar general duties and responsibilities.

87665. The governing board may terminate the employment of a temporary employee at its discretion at the end of a day or week, whichever is appropriate. The decision to terminate the employment is not subject to judicial review except as to the time of termination.

87666. During the school year, all contract and regular employees are subject to dismissal and the imposition of penalties on the grounds and pursuant to procedures set forth in this article.

87667. A contract or regular employee may be dismissed or penalized for one or more of the grounds set forth in Section 87732.

87668. A governing board may impose one of the following penalties:

(a) Suspension for up to one year.

(b) Suspension for up to one year and a reduction or loss of compensation during the period of suspension.

87669. The governing board shall determine whether a contract or regular employee is to be dismissed or penalized. If the employee is to be penalized, the governing board shall determine the nature of those penalties. If the employee is to be dismissed or penalized, the governing board shall determine whether the decision shall be imposed immediately or postponed in accordance with Section 87672.

87670. The procedure set forth in this article does not apply to an immediate suspension required by Section 87736.

87671. A contract or regular employee may be dismissed or penalized if one or more of the grounds set forth in Section 87732 are present and the following are satisfied:

(a) The employee has been evaluated in accordance with standards and procedures established in accordance with the provisions of this article.

(b) The district governing board has received all statements of evaluation which considered the events for which dismissal or penalties may be imposed.

(c) The district governing board has received recommendations of the superintendent of the district and, if the employee is working for a community college, the recommendations of the president of that community college.

(d) The district governing board has considered the statements of

evaluation and the recommendations in a lawful meeting of the board.

87672. If a governing board decides it intends to dismiss or penalize a contract or regular employee, it shall deliver a written statement, duly signed and verified, to the employee setting forth the complete and precise decision of the governing board and the reasons therefor.

The written statement shall be delivered by serving it personally on the employee or by mailing it by United States registered mail to the employee at his address last known to the district.

A governing board may postpone the operative date of a decision to dismiss or impose penalties for a period not to exceed one year, subject to the employee's satisfying his legal responsibilities as determined by statute and rules and regulations of the district. At the end of this period of probation, the decision shall be made operative or permanently set aside by the governing board.

87673. If the employee objects to the decision of the governing board or the reasons therefor on any ground, he shall notify in writing the governing board, the superintendent of the district which employs him, and the president of the college at which he serves of his objection within 30 days of the date of the service of the notice.

87674. Within 30 days of the receipt by the district governing board of the employee's demand for a hearing, the employee and the governing board shall agree upon an arbitrator to hear the matter. When there is agreement as to the arbitrator, the employee and the governing board shall enter into the records of the governing board written confirmation of the agreement signed by the employee and an authorized representative of the governing board. Upon entry of such confirmation, the arbitrator shall assume complete and sole jurisdiction over the matter.

87675. The arbitrator shall conduct proceedings in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, of the Government Code except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to one week before the date set for hearing. He shall determine whether there is cause to dismiss or penalize the employee. If he finds cause, he shall determine whether the employee shall be dismissed and determine the precise penalty to be imposed, and he shall determine whether his decision should be imposed immediately or postponed pursuant to Section 87672.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee

may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

87676. In the case in which the arbitrator determines that the operation of his decision should be postponed, any question of terminating the postponement shall be determined by the arbitrator.

87677. The district alone shall pay the fees of the arbitrator, his expenses, and such expenses as he shall determine are a cost of the proceedings. The "cost of the proceedings" does not include any expenses paid by the employee for his counsel, witnesses, or the preparation or presentation of evidence on his behalf.

87678. If within 30 days of the receipt of the notification by the district governing board, no written confirmation of agreement of the employee and the governing board as to an arbitrator has been submitted to the secretary of the governing board for entry into its records, the governing board shall certify the matter to the Office of Administrative Hearings and request the appointment of an administrative hearing officer.

87679. The administrative hearing officer shall conduct proceedings in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, of the Government Code except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to one week before the date set for hearing. The written notice delivered to the employee pursuant to Section 87672 shall be deemed an accusation. The written objection of the employee delivered pursuant to Section 87673 shall be deemed the notice of defense.

87680. The hearing officer shall determine whether there is cause to dismiss or penalize the employee. If he finds cause, he shall determine whether the employee shall be dismissed and determine the precise penalty to be imposed, and he shall determine whether his decision should be imposed immediately or postponed pursuant to Section 87672.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

87681. In the case in which the hearing officer determines that the operation of his decision should be postponed, any question of

terminating the postponement shall be brought to the hearing officer.

87682. The decision of the arbitrator or hearing officer, as the case may be, may, on petition of either the governing board or the employee, be reviewed by a court of competent jurisdiction in the same manner as a decision made by a hearing officer under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The court, on review, shall exercise its independent judgment on the evidence. The proceeding shall be set for hearing at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence is given by law.

87683. The charges levied by the Office of Administrative Hearings shall be paid by the district.

87684. If a contract or regular employee is dismissed or penalized for immoral conduct or conviction of a felony or crime involving moral turpitude, the governing board shall transmit to the Chancellor of the California Community Colleges, and to the county superintendent of schools which issued the certificate under which the employee was serving at the time of his dismissal or the imposition of his penalty, a statement setting forth the acts of the employee and a request that any certificate issued by the county board of education to the employee be revoked if the employee is not reinstated upon appeal.

(Amended by Stats. 1976, Ch. 1011 )

[ORIGINAL SECTION]

87684. If a contract or regular employee is dismissed or penalized for immoral conduct or conviction of a felony or crime involving moral turpitude, the governing board shall transmit to the Chancellor, California Community Colleges, and to the county superintendent of schools which issued the certificate under which the employee was serving at the time of his dismissal or the imposition of his penalty, a statement setting forth the acts of the employee and a request that any certificate issued by the county board of education to the employee be revoked if the employee is not reinstated upon appeal.

## Article 5. Rights and Duties of Certificated Personnel

87700. Every person employed by a community college district as a contract or regular employee in a position requiring certification qualifications who enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service, created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the service of the United States Merchant Marine, or in full-time paid service of the American Red Cross,

during any period of national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be entitled to absent himself from his duties as an employee of the district.

Such absence shall not affect in any way the classification of such employee. In the case of a contract employee, the period of such absence shall not count as part of the service required as a condition precedent to the classification of such employee as a regular employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee for any purpose.

The dismissal or termination of any contract employee because of reduced attendance due to war conditions, after his entry into the active military service or service in the American Red Cross, shall not deprive him of any of the benefits of this section.

Within six months after such employee honorably leaves such service or has been placed on inactive duty he shall, subject to the provisions of this section, be entitled to return to the position held by him at the time of his entrance into such service, at the salary to which he would have been entitled had he not absented himself from the service of the district under this section.

If such employee was employed under a lawful contract for a period in excess of one year in a position in which he had not become a regular employee of the district, he shall be entitled to return to such position for the period his contract of employment had to run at the time he entered such service. Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

87701. Every person employed by a community college district as a permanent employee in a position requiring certification qualifications who is elected to the Legislature shall be granted a leave of absence from his duties as an employee of the district by the governing board of the district.

During the term of such leave of absence, the employee may be employed by the district to perform such less than full-time service requiring certification qualifications, for such compensation and upon such terms and conditions, as may be mutually agreed upon.

Such absence shall not affect in any way the classification of such employee.

Within six months after the term of office of such employee expires he shall be entitled to return to the position held by him at the time of his election, at the salary to which he would have been entitled had he not absented himself from the service of the district under this section.

Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

This section shall apply to any permanent certificated district employee who held the office of Member of the Assembly or State Senator on or after January 4, 1965.

87702. The governing board of any community college district may provide for the payment of the actual and necessary traveling expenses of student teachers of vocational agriculture who hold certificates issued pursuant to Section 87212 when performing the duties of their positions.

All payments heretofore made to student instructors of vocational agriculture on account of actual and necessary traveling expenses incurred by them when performing the duties of their respective positions are hereby confirmed, ratified, and validated.

87703. Every instructor in the public schools shall before taking charge of a school, and one week before closing a term of school, notify the county superintendent of the fact, naming the day of opening or closing.

The governing board of a community college district shall in every case give to the instructor a notice of at least two weeks of its intention to close the term of school under its charge.

No superintendent shall draw any requisition for the last month's salary of any instructor until the instructor has filed with him the notice of the closing of the term.

87704. Every instructor in the public schools shall enforce the course of study, the use of legally authorized textbooks, and the rules and regulations prescribed for community colleges.

87705. Each instructor shall endeavor to impress upon the minds of the students the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, including kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

87706. Notwithstanding any other provision of this code, no community college district, or any officer or employee of such district or board shall be responsible or in any way liable for the conduct or safety of any student of the public schools at any time when such student is not in school property, unless such district has undertaken to provide transportation for such student to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances.

In the event of such a specific undertaking, the district shall be liable or responsible for the conduct or safety of any student only while such student is or should be under the immediate and direct supervision of an employee of such district or board.

87707. Every minor over 16 years of age or adult who is not a student of the community college, including but not limited to any such minor or adult who is the parent or guardian of a student of the

school, who comes upon any school ground or into any schoolhouse and there willfully interferes with the discipline, good order, lawful conduct, or administration of any school class or activity of the school, with the intent to disrupt, obstruct, or to inflict damage to property or bodily injury upon any person, is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or by imprisonment in the county jail for not more than six months, or both.

87708. Every parent, guardian, or other person who upbraids, insults, or abuses any instructor of the public schools, in the presence or hearing of a community college student is guilty of a misdemeanor.

87709. Any parent, guardian, or other person who insults or abuses any instructor in the presence of other school personnel or students and at a place which is on school premises or public sidewalks, streets, or other public ways adjacent to school premises or at some other place if the instructor is required to be at such other place in connection with assigned school activities is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars (\$50) nor exceeding five hundred dollars (\$500).

87710. The governing board of every community college district shall allow each instructor employed for full time in any regular day school in which two or more instructors are employed, one duty-free lunch period each day in the manner and at the time prescribed by regulation of the board of governors.

The board of governors shall adopt rules and regulations fixing the duration of the duty-free lunch period of certificated employees of community college districts, the time of day when the lunch period shall be granted, and prescribing the conditions under which the duty-free lunch period shall be allowed.

87711. Recognizing that an adequate lunch period free from duty is essential to the health, morale and efficiency of instructors employed full time in any regular day school, the Legislature declares that it is the policy of the state to encourage community college districts to provide for an adequate duty-free lunch period for instructors.

In order to provide for such duty-free lunch periods, the governing board of any community college district may utilize recreation personnel or other suitable persons to supervise the students of the district during the school lunch period.

The provisions of this section shall prevail over any provision of Section 87710 which conflicts herewith.

87712. The governing board of any community college district may also utilize persons not having certification qualifications to supervise the students of the district during any breakfast period or other nutrition period. The compensation of such personnel may be paid from funds from which the compensation of personnel employed under Section 87711 may be paid.

87713. Each community college president shall make an annual

report to the district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms furnished by the board of governors.

87714. Each general superintendent of community colleges shall make an annual report of the schools under his jurisdiction to the county superintendent of schools on forms furnished by the board of governors which report shall include an affidavit that all employees in positions requiring certification qualifications were properly certificated for the work performed.

87715. A full-time contract or regular classroom instructor currently employed by a community college district which decides to maintain classes on Saturday or Sunday, or both, shall not, without his written consent, be required to instruct under such program for more than 180 full days during a school year, or for more than the number of full days the schools of the district were maintained during the year preceding implementation of weekend classes, whichever is greater. This section shall not be construed as limiting the power of any governing board of a community college district to govern the schools of the district, including the assignment of instructors employed by the district. No such classroom instructor shall be assigned to perform services on a Saturday or Sunday if such instructor objects in writing that such assignment would conflict with his or her religious beliefs or practices.

#### Article 6. Instructor Dismissal Procedures

87730. Governing boards of community college districts shall accept the resignation of any employee and shall fix the time when the resignation takes effect, which shall not be later than the close of the school year during which the resignation has been received by the board.

87731. Whenever any certificated employee of any community college district who, at the time of his resignation, was classified as regular, is reemployed within 39 months after his last day of paid service, the governing board of the district shall, disregarding the break in service, classify him as, and restore to him all of the rights, benefits and burdens of, a regular employee, except as otherwise provided in this code; provided, that time spent in active military service, as defined in Section 87700, subsequent to the last day of paid service shall not count as part of the aforesaid 39-month period; and provided further, that any such employee who has engaged in active military service subsequent to his last paid service and who resigned more than 39 months prior to October 1, 1949, shall be deemed to have complied with all requirements of this section if he is or has been reemployed before July 1, 1950.

87732. No regular employee shall be dismissed except for one or more of the following causes:

- (a) Immoral or unprofessional conduct.

(b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(c) Dishonesty.

(d) Incompetency.

(e) Evident unfitness for service.

(f) Physical or mental condition unfitting him to instruct or associate with children.

(g) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the board of governors or by the governing board of the community district employing him.

(h) Conviction of a felony or of any crime involving moral turpitude.

(i) Conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(j) Violation of any provision in Sections 7000 to 7007, inclusive.

(k) Knowing membership by the employee in the Communist Party.

87733. No report on the fitness of an instructor in a dismissal proceeding shall be received from a statewide professional organization by a governing board unless the instructor shall have been given, prior to the preparation of the report in its final form, the opportunity to submit in writing his or her comments on the report and unless a copy of the report in final form is given to the instructor investigated at least 10 days prior to its submission to the board.

Such a report shall not be distributed other than to the governing board and those persons participating in its preparation unless the instructor does not demand a hearing as provided by law.

87734. The governing board of any community college district shall not act upon any charges of unprofessional conduct or incompetency unless during the preceding term or half school year prior to the date of the filing of the charge, and at least 90 days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the unprofessional conduct or incompetency, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his faults and overcome the grounds for such charge. The written notice shall include the evaluation made pursuant to Article 4 (commencing with Section 87660) of this chapter, if applicable to the employee. "Unprofessional conduct" and "incompetency" as used in this section means, and refers only to, the unprofessional conduct and incompetency particularly specified as a cause for dismissal in Section 87732 and does not include any other cause for dismissal specified in Section 87732.

87735. Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a

community college district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of the district with immoral conduct, conviction of a felony or of any crime involving moral turpitude, with incompetency due to mental disability, with willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing district, with knowing membership by the employee in the Communist Party or with violation of any provision in Sections 7000 to 7007, inclusive, the governing board may, if it deems such action necessary, immediately suspend the employee from his duties and give notice to him of his suspension, and that 30 days after service of the notice, he will be dismissed, unless he demands a hearing.

If the regular employee is suspended upon charges of knowing membership by the employee in the Communist Party or for any violation of Section 7001, 7002, 7003, 7006, or 7007, he may within 10 days after service upon him of notice of such suspension file with the governing board a verified denial, in writing, of the charges. In such event the regular employee who demands a hearing within the 30-day period shall continue to be paid his regular salary during the period of suspension and until the entry of the decision of the hearing officer, if and during such time as he furnishes to the district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the district the amount of salary so paid to him during the period of suspension in case the decision of the Commission on Professional Competence is that he shall be dismissed. If it is determined that the employee may not be dismissed, the district shall reimburse the employee for the cost of the bond.

87736. Whenever any certificated employee of a community college district is charged with the commission of any sex offense as defined in Section 87010 by complaint, information or indictment filed in a court of competent jurisdiction, the governing board of the district shall immediately place the employee upon compulsory leave of absence for a period of time extending for not more than 10 days after the date of the entry of the judgment in the proceedings. The governing board of the district may extend the compulsory leave of absence of the employee beyond such period by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his regular salary during the period of his compulsory leave of absence if and during such time as he furnishes to the community college district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the district the amount of salary so paid to him during the period of the compulsory leave of absence in case

the employee is convicted of such charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against him are dismissed, the district shall reimburse the employee for the cost of the bond upon his return to service in the district.

If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him are dismissed, the district shall pay to the employee his full compensation for the period of the compulsory leave of absence upon his return to service in the district.

Whenever any certificated employee of a community college district is charged with the commission of any narcotics offense as defined in Section 87011 of the Education Code, or a violation of subdivision 1 of Section 261 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the district may immediately place the employee upon compulsory leave in accordance with the procedure in this section.

87737. The notice of suspension and intention to dismiss, shall be in writing and be served upon the employee personally or by United States registered mail addressed to the employee at his last known address. A copy of the charges filed, containing the information required by Section 11503 of the Government Code, together with a copy of the provisions of this article, shall be attached to the notice. If the employee does not demand a hearing within the 30-day period, he may be dismissed upon the expiration of 30 days after service of the notice.

87738. (a) Any certificated employee may be suspended or transferred to other duties by the governing board if the board has reasonable cause to believe that the employee is suffering from mental illness of such a degree as to render him incompetent to perform his duties.

(b) The governing board shall forthwith, upon any suspension or transfer hereunder, give to the employee a written statement of the facts giving rise to the board's belief, and an opportunity to appear before the board within 10 days to explain or refute the charges.

(c) If, after the employee's appearance before the board, the board decides to continue the suspension or transfer, or if the employee chooses not to appear before the board, the employee shall then be offered, in writing, the opportunity of being examined by a panel of three psychiatrists selected by him from a list of psychiatrists to be provided by the board. To assist the panel in making their determination, the governing board shall supply to the panel, prior

to the date scheduled for the psychiatric examination, a list of the duties of the position from which the employee was suspended or transferred. The employee shall continue to receive his regular salary and all other benefits of employment during the period dating from his suspension to the filing of the report of the panel with the governing board.

(d) The psychiatric examination shall be conducted at community college district expense within 15 days of any suspension or transfer ordered hereunder. The employee shall submit to the examination, but shall be entitled to be represented by a psychiatrist or physician of his own choice, and any report of the psychiatrist or physician selected by him shall be filed with the panel at the request of the employee.

A written report of the panel on the examination of the suspended or transferred employee shall be submitted to the governing board within 10 days after completion of the examination. A copy shall be supplied to the employee upon request. The report shall contain a finding on whether the employee is suffering from mental illness of such a degree as to render him incompetent to perform his duties.

(e) If a majority of the panel conclude that the employee should be permitted to return to his duties, no written record of the suspension or of the determination of the panel shall be retained, and in all respects any written record concerning the employee shall appear as it did before the suspension was made.

(f) If a majority of the panel find in their report that the employee is suffering from mental illness of such a degree as to render him incompetent to perform his duties, the governing board may, upon receipt of the report, place the employee on mandatory sick leave of absence. Any mandatory sick leave of absence imposed under this section shall not exceed two years, during which period the employee shall be entitled to sick leave, hospital and medical benefits which he accrued during his employment by the governing board but only to the extent of such accrual.

(g) Any employee placed on mandatory sick leave of absence pursuant to this section may in writing immediately demand a hearing. Thereupon the governing board shall file a complaint in the superior court of the county in which the school district or the major part thereof is located, setting forth the charges against the employee and asking that the court inquire into the charges and determine whether or not the charges are true, and if true, whether they constitute sufficient grounds for placing the employee on mandatory sick leave of absence, and for a judgment pursuant to its findings.

(h) If the court finds that the employee was not at the time of the suspension incompetent to perform his assigned duties and should not have been placed on mandatory sick leave of absence, the employee shall be immediately reinstated to the same or a substantially similar position with full back salary, and any written record of the suspension or transfer or any report of the panel shall be destroyed.

(i) If the court confirms the placing of the employee on mandatory sick leave, or if the employee does not seek a hearing, then upon written request of the employee made not earlier than six months nor later than two years after the date he was placed on mandatory sick leave of absence, a new panel of three psychiatrists shall be convened by, and at the expense of, the governing board to review its original conclusion. If the original conclusion is not changed by the new panel as a result of such review, the employee shall be continued on a mandatory sick leave of absence except that when the employee's total period of absence exceeds two years, the governing board shall either rescind its action and reinstate the employee to the same or a substantially similar position, or shall serve the employee with a notice of intention to dismiss him.

(j) If a majority of the new panel concludes in its report, or any subsequent review thereof, that the suspended employee or employee on mandatory sick leave of absence should be permitted to return to his duties, or if the court so concludes, the governing board shall take immediate action to restore the employee to the position from which he was suspended or transferred or to a substantially similar position.

(k) Every hearing and action by or before the governing board pursuant to this section shall be in executive session, and no decision, action, or occurrence therein shall be made public, unless the employee so requests in writing.

(l) Nothing in this section shall be construed to supersede Section 87740.

87739. The governing board of a community college district shall dismiss certificated employees under the provisions of subdivision (i) of Section 87738 in accordance with the provisions of Article 4 (commencing with Section 87660) of this chapter.

87739.5. If the employee has been suspended pending the hearing, he shall be reinstated within five days after the governing board's decision in his favor, and shall be paid full salary by the governing board for the period of his suspension.

87740. (a) No later than March 15 and before an employee is given notice by the governing board that his services will not be required for the ensuing year, the governing board and the employee shall be given written notice by the superintendent of the district or his designee, or in the case of a district which has no superintendent by the clerk or secretary of the governing board, that it has been recommended that such notice be given to the employee, and stating the reasons therefor.

If a contract employee has been in the employ of the district for less than 45 days on March 15, the giving of such notice may be deferred until the 45th day of employment and all time periods and deadline dates herein prescribed shall be coextensively extended.

Until the employee has requested a hearing as provided in subdivision (b) or has waived his right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged

by any person, except as may be necessary in the performance of duties; however, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(b) The employee may request a hearing to determine if there is cause for not reemploying him for the ensuing year. A request for a hearing must be in writing and must be delivered to the person who sent the notice pursuant to subdivision (a), on or before a date specified therein, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his failure to do so shall constitute his waiver of his right to a hearing. The notice provided for in subdivision (a) shall advise the employee of the provisions of this subdivision.

(c) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency therein, except that: (1) the respondent shall file his notice of defense, if any, within five days after service upon him of the accusation and he shall be notified of such five-day period for filing in the accusation; (2) the discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate; and (3) the hearing shall be conducted by a hearing officer who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the students thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the hearing officer shall be binding on the governing board or on any court in future litigation. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the hearing officer, shall be paid by the governing board from the district funds. The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section.

(d) The governing board's determination not to reemploy a contract employee for the ensuing school year shall be for cause only. The determination of the governing board as to the sufficiency of the cause pursuant to this section shall be conclusive, but the cause shall

relate solely to the welfare of the schools and the students thereof and provided that cause shall include termination of services for the reasons specified in Section 87743. The decision made after the hearing shall be effective on May 15 of the year the proceeding is commenced.

(e) Notice to the contract employee by the governing board that his service will not be required for the ensuing year, shall be given no later than May 15.

(f) If a governing board notifies a contract employee that his services will not be required for the ensuing year, the board shall, within 10 days after delivery to it of the employee's written request, provide him with a statement of its reasons for not reemploying him for the ensuing school year.

(g) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.

(h) In the event that the governing board does not give notice provided for in subdivision (e) of this section on or before May 15, the employee shall be deemed reemployed for the ensuing school year.

(i) If after request for hearing pursuant to subdivision (b) any continuance is granted pursuant to Government Code Section 11524, the dates prescribed in subdivisions (c), (d), (e) and (h) which occur on or after the date of granting the continuance shall be extended for a period of time equal to such continuance.

87741. Unless a certificated employee holding a position requiring an administrative or supervisory credential is sent written notice deposited in the United States registered mail with postage prepaid and addressed to his last known address by March 15 that he may be released from his position for the following school year or unless the signature of such an employee is obtained by March 15 on such written notice that he may be released from his position for the following year, he shall be continued in such position. The provisions of this section do not apply to a certificated employee who holds a written contract with an expiration date beyond the current school year, or to a certificated employee holding a position that is funded for less than a school year, or to a certificated employee assigned to an acting position whose continuing right to hold this position depends on his being selected from an eligible list established for the position, or to the termination of employment pursuant to Section 87743.

87742. Governing boards of community college districts may dismiss temporary employees at any time at the pleasure of the board.

87743. No regular employee shall be deprived of his position for causes other than those specified in Sections 87453, 87467 and 87484, and Sections 87732 to 87739, inclusive, and no contract employee shall be deprived of his position for cause other than as specified in Section

87740 except in accordance with the provisions of Section 87463 and Sections 87743 to 87762, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of regular employees in said district, the said governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, regular as well as contract, at the close of the school year; provided, that the services of no regular employee may be terminated under the provisions of this section while any contract employee, or any other employee with less seniority, is retained to render a service which said regular employee is certificated and competent to render.

Notice of such termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 87740 and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 87413 and 87414. In the event that a regular or contract employee is not given the notices and a right to a hearing as provided for in Section 87740, he shall be deemed reemployed for the ensuing school year.

The board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

87744. Any regular employee whose services have been terminated as provided in Section 87743 shall have the following rights:

1. For the period of 39 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, in the order of original employment as determined by the board in accordance with the provisions of Sections 87401 to 87424, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no contract or other employee with less seniority shall be employed to render a service which said employee is certificated and competent to render.

2. The aforesaid right to reappointment may be waived by the employee, without prejudice, for not more than one school year, unless the board extends this right, but such waiver shall not deprive

the employee of his right to subsequent offers of reappointment.

3. As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination, but the period of his absence shall not count as a part of the service required for retirement.

4. During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, be offered prior opportunity for temporary service during the absence of any other employee who has been granted a leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon the return to duty of said other employee, that the compensation he receives shall be not less than the amount he would receive if he were being reappointed, and that said temporary service shall not affect the retention of his previous classification and rights.

4a. During the period of the employee's preferred right to reappointment, the governing board of the district, if it is also the governing board of one or more other districts, may assign him to service, which he is certificated and competent to render, in said other district or districts; provided, that the compensation he receives therefor may in the discretion of the governing board be the same as he would have received had he been serving in the district from which his services were terminated, that his service in the said other district or districts shall be counted toward the period required for both state and local retirement, as defined by Section 22102, as though rendered in the district from which his services were terminated, and that no regular employee in said other district or districts shall be displaced by him.

It is the intent of this subsection that the employees of a community college district, the governing board of which is also the governing board of one or more other community college districts, shall not be at a disadvantage as compared with employees of a unified school district.

5. At any time prior to the completion of one year after his return to service, he may continue or make up, with interest, his own contributions to any state or district retirement system, for the period of his absence, but it shall not be obligatory on state or district to match such contributions.

6. Should he become disabled or reach retirement age at any time before his return to service, he shall receive, in any state or district retirement system of which he was a member, all benefits to which he would have been entitled had such event occurred at the time of his termination of service, plus any benefits he may have qualified for thereafter, as though still employed.

87745. Any contract employee whose services have been

terminated as provided in Section 87743 shall have the following rights:

(a) For the period of 24 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, subject to the prior rights to reappointment by all regular employees as set forth in Section 87744, in the order of original employment as determined by the governing board in accordance with the provisions of Sections 87401 to 87424, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no contract or temporary employee with less seniority shall be employed to render a service which such employee is certificated and competent to render and provided that such an employee shall be given a priority over employees whose right to a position is derived pursuant to Section 87479.

(b) As to any such employee who is reappointed, the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service, he shall retain the classification and order of employment he had when his services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination; provided, however, that the period of his absence shall not be counted as a part of the service required for attaining regular status in the district or, except as provided in subdivision (c), for retirement purposes.

(c) During the period of his preferred right to reappointment, any such employee shall, in the order of original employment, and subject to the rights of regular employees as set forth in Section 87744, be offered prior opportunity for temporary service during the absence of any other employee who has been granted leave of absence or who is temporarily absent from duty; provided, that his services may be terminated upon a return to duty of such other employee, that such temporary service shall not affect the retention of his previous classification and rights, and that such an employee shall be given a priority over employees whose right to a temporary position is derived pursuant to Section 87479.

(d) At any time prior to the completion of one year after his return to service, an employee reappointed under the provisions of this section may elect to continue or to reinstate his membership and interest in any state or district retirement system and to receive retirement benefits as if no absence from service had occurred. In the event of such election the employee shall pay into the retirement system the amount of his share of contribution and the district's share of contribution attributable to the period of absence and the amount of any contributions withdrawn, plus interest.

87746. If the services of any contract employee are terminated, or if such employee is dismissed, because of a reduction in the attendance of students or the discontinuance of a particular kind of

service, and such employee is reemployed within a period of 39 months from the last day of the school year within which his service was so terminated, or within 39 months after the cessation of hostilities, if such reduction in attendance or discontinuance of service was due to war conditions, the period of his absence shall not count as a part of the service required as a condition precedent to the classification of such employee as a regular employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee.

Every such contract employee who has been reemployed as indicated in this section shall have all of the rights enumerated in Section 87463 and Sections 87743 to 87762, inclusive, for regular employees, except the right of reappointment, subject only to the prior rights of regular employees.

The provisions of this section shall apply to any contract employee who shall be or who shall have been dismissed or terminated after January 1, 1949, because of reduction in attendance or discontinuance of a particular kind of service.

#### Article 7. Instructors' Leaves of Absence

**87760.** As to any regular certificated employee whose services have been terminated because of the effect of wars in which the United States is engaged upon the attendance of students or upon the maintenance of a particular kind of service, the effective period covered by all rights enumerated in Section 87744 is extended until two years after the cessation of hostilities, and in addition thereto for a like period the said employees shall have the following rights:

1. He may voluntarily accept termination of service in other than the order of original employment and retain all of the other rights herein provided.

2. If he is engaged in any form of civilian or military war service, any credential or certificate he holds is continued in full force and effect until 90 days after the termination of his employment therein.

3. If, either before or after such termination, he engages in any form of war service for which provision is made in Section 87700, or elsewhere in the laws of this state, he shall retain all rights granted by such war service legislation as though still employed; provided, that the right to reappointment shall be in the order of original employment, as determined in accordance with the provisions of Sections 87413 and 87414.

The services of all regular certificated employees dismissed since December 7, 1941, because of the effect of the wars upon attendance of students or the maintenance of service shall be deemed to have been terminated in accordance with the provisions of Section 87743, as amended, and said employees shall have all of the rights in this section provided.

**87761.** The services of any regular certificated employee referred to in Section 87760 who has been appointed to temporary service in

place of another employee who is on leave of absence for civilian or military war service may be terminated upon the return of said other employee from such leave of absence, but only at the end of the current semester or quarter and not less than 30 days after written notice that his services will no longer be required.

87762. In specifying or defining the rights of employees in Section 87463 and Sections 87743 to 87762, inclusive, the effect of war refers to "war" as defined in Section 88.

87763. Governing boards of community college districts may grant leaves of absence to persons employed in positions requiring certification qualifications.

87764. When any provision of this code expressly authorizes or requires the governing board of a community college district to grant a leave of absence for any purpose or for any period of time to persons employed in positions requiring certification qualifications, that express authorization or requirement does not deprive the governing board of the power to grant leaves of absence with or without pay to such employees for other purposes or for other periods of time, so long as the governing board does not deprive any employee of any leave of absence to which he is entitled by law.

87765. The governing board of a community college district may provide for the leave of absence from duty and may grant compensation during the leave of absence to any employee of the district who is employed in a position requiring certification qualifications and who is compelled to absent himself from his duties because of accident or illness, whether or not the cause of absence arises out of and in the course of the employment of the employee, or because of quarantine which results from his contact with other persons having a contagious disease while performing his duties, or because of temporary inability to perform the services required of him because of illness, accident, or quarantine.

87766. The governing board of a community college district shall provide for leave of absence from duty for any certificated employee of the district who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom. The length of the leave of absence, including the date on which the leave shall commence and the date on which the employee shall resume duties, shall be determined by the employee and the employee's physician.

Disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment by any school district.

Except as provided herein, written and unwritten employment policies and practices of a community college district shall be applied to disability due to pregnancy or childbirth on the same terms and conditions applied to other temporary disabilities.

This section shall be construed as requiring the governing board

of a community college district to grant leave with pay only when it is necessary to do so in order that leaves of absence for disabilities caused or contributed to by pregnancy, miscarriage, or childbirth be treated the same as leaves for illness, injury, or disability.

87767. The governing board of a community college district may grant any employee of the district employed in a position requiring certification qualifications, a leave of absence not to exceed one year for the purpose of permitting study or travel by the employee which will benefit the schools and students of the district. The governing board may provide that such a leave of absence be taken in separate six-month periods or separate quarters rather than for a continuous one-year period, provided that the leave of absence for both of the separate six-month periods or any or all quarters shall be commenced and completed within a three-year period. Any period of service by the individual intervening between the two separate six-month periods or separate quarters of the leave of absence shall comprise a part of the service required for a subsequent such leave of absence.

If any leave of absence commenced upon within three years prior to September 15, 1961, was taken in one or more separate periods of less than one year, the period of service intervening between such separate periods shall comprise a part of the service required for a subsequent such leave of absence.

87768. Notwithstanding any other provision of this code, the governing board of any community college district may grant a leave of absence under Section 87767 to any employee engaged in a teaching position in grade 13 or 14 who has rendered service to the district for at least six consecutive years preceding the granting of the leave, but not more than one such leave of absence shall be granted in each six-year period. The governing board granting the leave of absence may, subject to the rules and regulations of the board of governors, prescribe the standards of service which shall entitle the employee to the leave of absence. No absence from the service of the district under a leave of absence, other than a leave of absence granted pursuant to Section 87767, granted by the governing board of the district shall be deemed a break in the continuity of service required by this section, and the period of such absence shall not be included as service in computing the six consecutive years of service required by this section. Service under a national recognized fellowship or foundation approved by the board of governors, for a period of not more than one year, for research, teaching or lecturing shall not be deemed a break in continuity of service, and the period of such absence shall be included in computing the six consecutive years of service required by this section.

87769. Every employee granted a leave of absence pursuant to Section 87767 may be required to perform such services during the leave as the governing board of the district and the employee may agree upon in writing, and the employee shall receive such compensation during the period of the leave as the governing board and the employee may agree upon in writing, which compensation

shall be not less than the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. However, in lieu of such difference, the board may pay one-half of the salary of the employee on leave or any additional amount up to and including the full salary of the employee on leave.

87769.5. An employee granted a leave of absence pursuant to Section 87767 or 87768 may agree in writing with the governing board of the community college district not to receive compensation during the period of the leave.

87770. Every employee, as a condition to being granted a leave of absence pursuant to Section 87767, shall agree in writing to render a period of service in the employ of the governing board of the district following his return from the leave of absence which is equal to twice the period of the leave. Compensation granted by the governing board to the employee on leave for less than one year may be paid during the first year of service rendered in the employ of the governing board following the return of the employee from the leave of absence or, in the event that the leave is for a period of one year, such compensation may be paid in two equal annual installments during the first two years of such service following the return of the employee. The compensation shall be paid the employee while on the leave of absence in the same manner as if the employee were teaching in the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the employee fails to render the agreed upon period of service in the employ of the governing board following the return of the employee from the leave of absence. The bond shall be exonerated in event the failure of the employee to return and render the agreed upon period of service is caused by the death or physical or mental disability of the employee. If the governing board finds and by resolution declares that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render the agreed upon period of service therein following his return from the leave, the governing board in its discretion may waive the furnishing of the bond and pay the employee on leave in the same manner as though a bond is furnished.

87771. If the employee does not serve for the entire period of service agreed upon under Section 87770, the amount of compensation paid for the leave of absence shall be reduced by an amount which bears the same proportion to the total compensation as the amount of time which was not served bears to the total amount of time agreed upon. If the employee furnished an indemnity bond, upon default, the proceeds of the bond shall be divided between the employee and the community college district in the same proportion as the actual amount of time served bears to the amount of time agreed upon.

87772. If a unified school district which includes a community

college is reorganized so that a community college district is formed in addition to the unified school district, an employee who takes his leave from the unified school district before the reorganization may satisfy the two years' service required by Section 87770 by serving for two years in either the community college district or the unified school district, as they exist after the reorganization, or in both.

87773. Where one governing board serves as the governing board of two or more separate districts, an employee may fulfill the service requirements provided in Section 87770, by service in any one or more of the districts under the jurisdiction of such governing board. At the option of the governing board the provisions of this section may apply in whole or in part to service rendered prior to October 1, 1949.

87774. At the expiration of the leave of absence of the employee, he shall, unless he otherwise agrees, be reinstated in the position held by him at the time of the granting of the leave of absence.

87775. Both the governing board of a community college district and the district shall be freed from any liability for the payment of any compensation or damages provided by law for the death or injury of any employee of the district employed in a position requiring certification qualifications when the death or injury occurs while the employee is on any leave of absence granted under the provisions of Sections 87763 to 87779, inclusive.

87776. No leave of absence when granted to a contract employee shall be construed as a break in the continuity of service required for the classification of the employee as regular. The time during which the leave of absence is taken shall not be considered as employment within the meaning of Sections 87449 to 87452, inclusive. Sections 87454 to 87462, inclusive, Sections 87464 to 87466, inclusive, and Sections 87468 to 87480, inclusive.

87777. Whenever any permanent or probationary employee of a high school district is employed by a community college district pursuant to Section 87462 or 87464 such employee shall be entitled to retain all sickness and injury, sabbatical and other leave rights accumulated by service prior to such employment and the district shall recognize and grant such rights, including any accumulated rights allowed by the governing board of the high school district, as fully as if there was no change in the community college district.

87778. Whenever a permanent or probationary certificated employee of a high school district is granted a leave of absence from the high school district and is employed by a community college district which is governed by a governing board composed of identical personnel as the governing board of the high school district from which the employee is on leave, such employee may, at the discretion of the governing board of the community college district, be allowed to retain all sickness and injury, sabbatical and other leave rights accumulated by service with the high school district prior to employment with the community college district, including any accumulated rights allowed by the governing board of the high

school district prior to the transfer, as fully as if there were no change in employment from the high school district to the community college district. This section shall be applicable whether the transfer of employment occurred before or after May 12, 1970.

87779. When a community college or other place of employment shall have been transferred from one district to another, any certificated employees who transfer with said school or other place of employment shall be entitled to retain all sickness and injury, sabbatical and other leave rights accumulated by service prior to such transfer and the district to which such school or other place of employment has been transferred shall recognize or grant such rights, including any accumulated rights allowed by the governing board of the district from which the school or other place of employment was transferred, as fully as if there had been no change in the district maintaining such school or other place of employment.

87780. When a person employed in a position requiring certification qualifications is absent from his duties on account of illness or accident for a period of five school months or less, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due him for any month in which the absence occurs shall not exceed the sum which is actually paid a temporary employee employed to fill his position during his absence or, if no temporary employee was employed, the amount which would have been paid to the temporary employee had he been employed. The community college district shall make every reasonable effort to secure the services of a temporary employee.

The governing board of every community college district shall adopt a salary schedule for temporary employees. The salary schedule shall indicate a salary for a temporary employee for all categories or classes of certificated employees of the district.

Excepting in a district the governing board of which has adopted a salary schedule for temporary employees of the district, the amount paid the temporary employee during any month shall be less than the salary due the employee absent from his duties.

When a person employed in a position requiring certification qualifications is absent from his duties on account of illness for a period of more than five school months, or when a person is absent from his duties for a cause other than illness, the amount deducted from the salary due him for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. Such rules and regulations shall not conflict with rules and regulations of the board of governors.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons requiring certification qualifications.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

87781. Every certificated employee employed five days a week by a community college district shall be entitled to 10 days' leave of absence for illness or injury and such additional days in addition thereto as the governing board may allow for illness or injury, exclusive of all days he is not required to render service to the district, with full pay for a school year of service. A certificated employee employed for less than five schooldays a week shall be entitled, for a school year of service, to that proportion of 10 days' leave of absence for illness or injury as the number of days he is employed per week bears to five and is entitled to such additional days in addition thereto as the governing board may allow for illness or injury to certificated employees employed for less than five schooldays a week; pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking such leave by the employee and such leave of absence may be taken at any time during the school year. If such employee does not take the full amount of leave allowed in any school year under this section the amount not taken shall be accumulated from year to year with such additional days as the governing board may allow.

The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purposes of this section. Such rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized church or denomination.

Nothing in this section shall be deemed to modify or repeal any provision of law contained in Chapter 3 (commencing with Section 3110) of Division 4 of the Health and Safety Code.

The provisions of Section 87780 relating to compensation shall not apply to the first 10 days of absence on account of illness or accident of any such employee employed five days a week or to the proportion of 10 days of absence to which such employee employed less than five days a week is entitled hereunder on account of illness or accident or to such additional days granted by the governing board. Any employee shall have the right to utilize sick leave provided for in this section and the benefit provided by Section 87780 for absences necessitated by pregnancy, miscarriage, childbirth, and recovery therefrom.

87782. Any certificated employee of a community college district who has been an employee of that district for a period of one school year or more and who accepts a position requiring certification qualifications in another school district or community college district at any time during the second or any succeeding school year of his employment with the first district, or who, within the school year succeeding the school year in which such employment is terminated,

signifies acceptance of his election or employment in a position requiring certification qualifications in another district, shall have transferred with him to the second district the total amount of leave of absence for illness or injury to which he is entitled under Section 87781. The board of governors shall adopt rules and regulations prescribing the manner in which the first district shall certify to the second district the total amount of leave of absence for illness or injury to be transferred. No governing board shall adopt any policy or rule, written or unwritten, which requires any certificated employee transferring to its district to waive any part or all of the leave of absence which he may be entitled to have transferred in accordance with this section.

87783. Any certificated employee of a community college district who accepts a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of any county superintendent of schools who accepts a position requiring certification qualifications in a school district or office of another county superintendent of schools; or, any person employed by the board of governors in a position requiring certification qualifications or an employee of the office of the Chancellor of the California Community Colleges who accepts a position requiring certification qualifications in a community college district or office of any county superintendent of schools; or, any certificated employee of the Commission for Teacher Preparation and Licensing who accepts a position requiring certification qualifications in any community college district; shall have transferred with him to the second position his accumulated leave of absence for illness or injury. The amount of such leave to be transferred shall be determined in the same manner as provided in Section 87782. All other provisions of Section 87782 shall also apply to the employees and employers described in this section.

87784. Any days of leave of absence for illness or injury allowed pursuant to Section 87781 may be used by the employee, at his election, in cases of personal necessity. The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for purposes of this section.

The employee shall not be required to secure advance permission for leave taken for any of the following reasons:

- (a) Death or serious illness of a member of his immediate family.
- (b) Accident, involving his person or property, or the person or property of a member of his immediate family.

No such accumulated leave in excess of six (6) days may be used in any school year for the purposes enumerated in this section.

87785. Any person employed by a community college district, in a position requiring certification qualifications who accepts a professional education position in the chancellor's office of the California community colleges, the appointment to which is, or is intended to become, permanent, shall have transferred with him to

the chancellor's office of the California community colleges his accumulated leave of absence for illness or injury. The amount of such leave to be transferred shall be determined in the same manner as provided in Section 87782, except in no case may the transferred accumulated sick leave exceed that amount of accumulated sick leave that the person would have earned as an employee in the system to which he is transferring. All other provisions of Section 87782 shall also apply to the employees and employers described in this section.

87786. Section 87780 shall not apply to any community college district which adopts and maintains in effect a rule which provides that when a person employed in a position requiring certification qualifications is absent from his duties on account of illness or accident for a period of five school months or less whether or not the absence arises out of or in the course of the employment of the employee, he shall receive 50 percent or more of his regular salary during the period of such absence and nothing in Section 87780 shall be construed as preventing the governing board of any district from adopting any such rule.

Notwithstanding the foregoing, when a person employed in a position requiring certification qualifications is absent from his duties on account of illness for a period of more than five school months, or when a person is absent from his duties for a cause other than illness, the amount deducted from the salary due him for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. Such rules and regulations shall not conflict with rules and regulations of the board of governors.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons requiring certification qualifications.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

87787. Governing boards of community college districts shall provide by rules and regulations for industrial accident and illness leaves of absence for all certificated employees. The governing board of any district which is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1976, shall provide by rules and regulations for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes as provided in Section 4064.

Such rules or regulations shall include the following provisions:

a. Allowable leave shall be for not less than 60 days during which the schools of the district are required to be in session or when the employee would otherwise have been performing work for the

district in any one fiscal year for the same accident;

b. Allowable leave shall not be accumulated from year to year;

c. Industrial accident or illness leave shall commence on the first day of absence;

d. When a certificated employee is absent from his duties on account of an industrial accident or illness, he shall be paid such portion of the salary due him for any month in which the absence occurs as, when added to his temporary disability indemnity under Division 4 or Division 4.5 (commencing with Section 6100) of the Labor Code, will result in a payment to him of not more than his full salary;

The phrase "full salary" as utilized in this subdivision shall be computed so that it shall not be less than the employee's "average weekly earnings" as that phrase is utilized in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.

e. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award;

f. When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him for the same illness or injury.

Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 87780, 87781 and 87786, and for the purposes of each of these sections, his absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave, provided that if the employee continues to receive temporary disability indemnity, he may elect to take as much of his accumulated sick leave which, when added to his temporary disability indemnity, will result in a payment to him of not more than his full salary.

The governing board may, by rule or regulation, provide for such additional leave of absence for industrial accident or illness as it deems appropriate.

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his industrial accident or illness. The district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants.

Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board pursuant to this section an employee shall be entitled to

industrial accident or illness leave as provided in this section but without limitation as to the number of days of such leave.

87788. Every person employed by a community college district in a position requiring certification qualifications is entitled to a leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this code or provided by the governing board of the district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

#### Article 8. Salaries

87800. Females employed as instructors in the public schools of the state shall, in all cases, receive the same compensation as is allowed male teachers for like services, when holding the same grade certificates.

87801. The governing board of a community college district shall fix and order paid the compensation of persons in public school service requiring certification qualifications employed by the board unless otherwise prescribed by law.

87802. The governing board of each community college district shall adopt and cause to be printed and made available to each certificated employee a schedule of salaries to be paid.

87803. Every person employed by the district in a position requiring certification qualifications in a day school of the district for not less than the minimum schoolday for each day the schools of the district are maintained during the school year is a full-time employee and his compensation shall be fixed accordingly.

87804. The governing board of a community college district may employ such temporary employees of the district as it deems necessary and shall adopt and make public a salary schedule setting the daily or pay period rate or rates for temporary employees.

This section shall not be construed as modifying or repealing any law fixing a minimum annual salary for employees of district.

87805. The salaries of home instructors shall be paid from the city or district special school funds.

87806. The governing board of a community college district may at any time during any school year increase the salaries of persons employed by the district in positions requiring certification qualifications, such increase to be effective on any date ordered by the governing board.

87807. The governing board of a community college district shall not decrease the annual salary of a person employed by the district in a position requiring certification qualifications for failure to meet any requirement of the district that such person complete additional educational units, course of study, or work in any college or university or any equivalent thereof.

87808. No order for a warrant, and no warrant drawn pursuant to Section 85261, shall be drawn in favor of any person employed in a position requiring certification qualifications, unless such person is at the time the holder of a proper certification document in full force for the full time for which the requisition or warrant, as the case may be, is drawn, and on file or registered as required by law at the time and unless he is employed by the governing board of the community college district as provided in this code.

87809. If a community college district fails to pay the salary of any person employed by it in a position requiring certification qualifications who has on file a contract of employment held valid by the legal adviser of the county superintendent of schools having jurisdiction over the district, such county superintendent of schools may transfer sufficient money from the funds of the district to the county school service fund and pay such salary from such fund.

87810. Whenever, on or after September 15, 1961, a person has rendered service in a position requiring certification qualifications, or the governing board of a district has employed a person in a position requiring certification qualifications, or the county superintendent has drawn an order for a warrant in favor of a person in a position requiring certification qualifications, for a period of service during which the person did not have a valid credential required for such position in force as required by law, and when as a result thereof the employment of the person to render such service, the rendering of such service, the inclusion of the attendance of students taught by the person in the average daily attendance of the district, or the drawing of the order warrant for the service of such person, is in violation of Sections 84500, 87400, 87808 or any other provision of this code, such employment, rendering of service, inclusion of attendance, or drawing of the order for the warrant shall be deemed fully legal for all purposes if the board of governors approves thereof in accordance with this section.

The board of governors shall adopt rules and regulations to establish procedures for a review in such cases and shall determine whether the rendering of such service shall be approved and made fully legal for all purposes. If the board gives its approval to the rendering of such service, then such employment, inclusion of attendance, and drawing of the order for the warrant shall be automatically approved and made fully legal for all purposes.

The board shall not approve of the rendering of such service unless it determines that the person rendering the service had, in fact, the necessary qualifications, during the period of service in question, for the credential required by law for the position in which the service

was rendered, and unless a valid credential required for such position has been issued to such person prior to review and action by the board.

In amending this section at the 1964 First Extraordinary Session of the Legislature, it is the intent of the Legislature to allow the board of governors to review cases involving service rendered prior to the effective date of such amendment in accordance with the provisions of this section as amended at such session.

87811. Notwithstanding any other provision of law, if prior to September 18, 1959, any certificated employee of any community college district is discharged from a position requiring certification qualifications contrary to the provisions of this code and is thereafter restored to his position pursuant to judicial proceedings in a court of competent jurisdiction, the governing board of the district may pay such employee an amount equal to the amount which would have been paid to such employee from the date of such discharge to the date of his restoration to his position, irrespective of whether such employee was the holder of a valid certification document during the period of such unlawful removal from his position.

87812. The governing board of a community college district may arrange to pay the persons in positions requiring certification qualifications employed by it, or any one or more of such employees or one or more groups or categories of such employees, in either 10 or 11 or 12 equal payments instead of by the school month.

In lieu thereof, orders for the payment of salary, and payroll orders for the payment of salary and warrants for the payment of salary of employees employed in positions requiring certification qualifications may be drawn once each two weeks, twice a month, or once each four weeks as determined by the governing board.

87813. Where the governing board of a community college district arranges to pay persons employed by it in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, whether or not the persons are actually engaged in teaching during the month.

87814. The governing board of a community college district not paying the annual salaries of persons employed by the district in 12 equal monthly payments may withhold from each payment made to each employee an amount equal to 16 $\frac{2}{3}$  percent thereof.

The total of the amounts deducted from the salary of any employee during any school year shall be paid to him in two equal installments, one installment to be paid not later than the fifth day of August next succeeding, and one installment to be paid not later than the fifth day of September next succeeding.

In the event any employee leaves the service of the district by death or otherwise before receiving such moneys as may be due him, the amount due him shall be paid within 30 days to him or to any other person entitled thereto by law.

87815. A person in a position requiring certification qualifications who serves less than a full school year shall receive as salary only an

amount that bears the same ratio to the established annual salary for the position as the number of working days he serves bears to the total number of working days plus institutes in the annual school term, and any other day when the employee is required by the governing board to be present at the schools of the district. Notwithstanding any provisions of this section to the contrary, a person in a position requiring certification qualifications who serves a complete semester shall receive not less than one-half of the established annual salary for the position. This section shall not be so construed as to prevent the payment of compensation to a person while on leave of absence when the payment of the compensation is authorized by law.

In the event any such person dies during the school year, his estate shall be entitled to receive, as salary owed to the decedent, an amount that bears the same ratio to the established annual salary for the position as the number of working days he served bears to the total number of working days plus institutes in the annual school term, and any other day when the employee was required by the governing board to be present at the schools of the district, less any salary paid to the decedent prior to his death.

87816. Notwithstanding the provisions of Section 87815, the governing board of a community college district may adopt an alternative method of computing the salary received by a person requiring certification qualifications who serves less than a full school year.

Such method shall include the deduction from the employee's regular salary of only that amount actually paid to a substitute or, if a substitute is not employed, the amount which would have been paid to a substitute had a substitute been employed.

For the purposes of this section, the amount which would have been paid to a substitute is that amount established by the district in a published salary schedule for substitute employees.

Such alternative method shall only be applied upon authorization by the community college board based upon individual employee application and shall be limited to no more than five days per school year for each employee.

87817. Notwithstanding the provisions of Section 87815 or any other provision of law to the contrary, if a person is employed by a community college district in a position requiring certification qualifications at the beginning of the second semester of a school year for services during that semester, the compensation of such employee shall be not less than one-half of the annual compensation for that position.

87818. Whenever a salary schedule increasing the salaries of its certificated employees is adopted by a community college district to be effective at the commencement of the second semester of a school year:

(a) The compensation of such employees shall not exceed one-half of the annual compensation for their positions under the

former salary schedule for services during the first semester.

(b) The compensation of such employees shall not be less than one-half of the annual compensation for their positions under the newly adopted salary schedule for services during the second semester.

This section shall not be construed to limit the time at which any salary increase ordered by the governing board shall become effective.

87820. Service on a commission on professional competence as provided by law, in the employing community college district or in some other district, by a person employed by a district in a position requiring certification qualifications shall not be considered time off the job with respect to Section 87815. Neither the amount paid to a substitute required to be hired to replace such a person serving on a commission on professional competence in the employing district or in some other district nor the amount which would have been paid to a temporary had a temporary been employed, shall be deducted from the person's salary pursuant to Section 87820.

87821. Each salary payment for any calendar month may be made on the last working day of the month and shall be paid not earlier than the last working day of the month and not later than the fifth day of the succeeding calendar month except that instructors employed for less than full time in classes for adults, in a day or evening community college, shall be paid on or before the 10th day of the succeeding calendar month for services performed during the preceding calendar month.

If the community college district provides for the payment of the salary of employees employed in positions requiring certification qualifications once each two weeks, twice a month, or once each four weeks, pursuant to Section 87812, each salary payment may be made on the last working day of the payroll period and shall be made not earlier than the last working day of the payroll period and not later than the eighth working day of the following payroll period.

This section shall not prohibit a district from making a payment of earned salary prior to the last working day of the month or payroll period.

87822. When any community college district employs a certificated employee to perform instruction or other services in addition to his regular instructing duties, or when a district employs a certificated employee to perform instructing or other services at a summer school maintained by the district, the district shall pay the employee for such services either in one lump sum or at an hourly, daily, biweekly, quadriweekly, or monthly rate of pay. If the pay is in one lump sum, the district shall pay the employee within 10 days after the termination of the services. If the pay is at an hourly, daily, biweekly, quadriweekly or monthly rate, the district shall pay the employee within 10 days after the end of each calendar month or pay period during which the services are performed.

87823. Instead of issuing a single warrant to each employee for

salary or wages the district may use a payroll form of warrant making payment to two or more employees on one payroll warrant.

87824. When the payroll form of warrant is used, the approved and allowed payroll warrant shall be deposited with the county treasurer, who shall make payment to the employee or his order.

87825. When the payroll form of warrant is used the name of each employee shall be listed.

87826. The governing board of each community college district shall pay to each person employed in a day school of the district for full time in a position requiring certification qualifications and serving under other than an emergency or provisional credential an annual salary of not less than six thousand dollars (\$6,000).

The governing board of each community college district shall pay to each person employed for less than full time in a position requiring certification qualifications and serving under other than an emergency or provisional credential an annual salary of not less than an amount which bears the same ratio to six thousand dollars (\$6,000) as the time required of the person bears to the time required of a person employed full time.

"Full time" means not less than the minimum schoolday for each day the schools of the district are maintained during the school year.

The provisions of this section shall not be construed as applying to temporary employees of a community college district or to persons employed exclusively to teach driver training who possess only a standard designated subjects teaching credential in public safety and accident prevention.

87827. The governing board of each community college district shall pay to each person employed in a day school of the district for full time in a position requiring certification qualifications and serving under an emergency credential or provisional credential an annual salary of not less than two thousand four hundred dollars (\$2,400).

The governing board of each community college district shall pay to each person employed for less than full time in a position requiring certification qualifications and serving under an emergency credential or provisional credential an annual salary of not less than an amount which bears the same ratio to two thousand four hundred dollars (\$2,400) as the time required of the person bears to the time required of a person employed full time.

"Full time" means not less than the minimum schoolday for each day the schools of the district are maintained during the school year.

The provisions of this section shall not be construed as applying to temporary employees of a district.

87828. Except as otherwise provided in this code, no warrant shall be drawn in favor of any instructor, unless the officer whose duty it is to draw the warrant is satisfied that the teacher has faithfully performed all the duties prescribed.

87829. Whenever a person is employed by two or more districts under the jurisdiction of a single county superintendent of schools,

the governing boards of the districts may authorize, in writing, the county superintendent of schools to act as their agent in the payment of the salaries due such person from the districts. If such authorization is given, the county superintendent of schools may draw a warrant on the county school service fund in payment of the total salaries due such person and shall immediately draw requisitions in favor of the county school service fund against the proper funds of each district for the amount paid by him to such person on account of such district.

87830. The salary payment due a certificated employee for his last month of service in any district during any fiscal year shall not be approved by the county superintendent of schools until all reports required from the employee have been filed with said superintendent.

87831. Whenever reports are required to be filed with the county superintendent of schools by certificated employees of districts authorized to issue warrants under the provision of Section 85261 and such reports have not been filed, the county superintendent of schools may direct the district in writing to withhold the salary payment due the certificated employee involved. Said payment should not be released to the certificated employee until directed in writing by the county superintendent of schools.

87832. For the purposes of Military and Veterans Code Section 395 or any other provision of law providing for the payment of salary or compensation as such employee to an employee of a community college district while absent from duty because engaged in ordered military or naval duty, his salary or compensation as such employee for 30 days shall (a) with respect to an employee serving in a position requiring certification qualifications be deemed to be one-tenth of the annual salary established for such position and (b) with respect to an employee serving in a position not requiring certification qualifications be deemed to be one month's salary.

87833. The governing board of each community college district when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes such statewide organization to receive membership dues on its behalf and for the purpose of paying his pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district for such dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period. The governing board shall each month draw its order upon the funds of the district in favor of the organization designated by the

employee for an amount equal to the total of the dues deductions made with respect to such organization during the month. The district shall retain and deposit in the general fund of the district the total amounts deducted from the employee's salary payment for the purpose of paying the employee's pro rata share of the costs incurred by the district in making the dues deductions provided for in this section. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making such deduction.

#### Article 9. Instructor Preparation

87860. On and after July 1, 1974, each school with a substantial population of students of diverse ethnic backgrounds shall provide an in-service preparation program designed to prepare instructors and other professional school service personnel to understand and effectively relate to the history, culture, and current problems of these students and their environment. For purposes of this article a school shall be considered to have a substantial population of students of diverse ethnic backgrounds where 25 percent or more of all the students in the school are of diverse ethnic backgrounds.

87861. The board of governors shall develop a list of approved courses which shall be considered acceptable for meeting the requirements of this article. The board shall cause a list of approved courses to be published and distributed to interested instructors, administrators, and governing boards of community college districts. The board shall be responsible for coordinating the efforts of community college districts and colleges to develop adequate course offerings to satisfy the requirements of this article.

87862. In-service programs designed to fulfill the requirements of this article may include, but need not be limited to, courses offered by community colleges and colleges and universities approved by the board of governors. A district may provide an in-service program consisting in whole or in part of preparation other than college courses.

Such a program shall be developed cooperatively with the board of governors and shall have prior approval of the board of governors. An in-service program which meets the intent of this article shall encompass the history, culture, and current problems of the students of diverse ethnic background.

All college courses approved by the board of governors for the purposes of this article shall be considered acceptable for salary credit purposes by any community college district. District in-service programs shall specify an amount of equivalent credit which shall be acceptable for salary credit purposes in the district providing the in-service program.

87863. The board of governors shall provide in its budget for the

necessary funds to employ appropriate staff to implement the intent of this article.

87864. The board of governors shall make a progress report to the Legislature not later than the fifth legislative day of the 1972 Regular Session. The board shall further report not later than the fifth legislative day of the 1974 Regular Session the number of districts to which this article is applicable at that time and the extent to which implementation has been achieved. The board shall continually evaluate the results of this article.

## CHAPTER 4. CLASSIFIED EMPLOYEES

### Article 1. Employment

88000. Article 1 (commencing with Section 88000), Article 2 (commencing with Section 88050), Article 4 (commencing with Section 88160), Article 5 (commencing with Section 88180), Article 6 (commencing with Section 88190), and Article 8 (commencing with Section 88240) of this chapter, Sections 10340 and 10341, and the applicable provisions of Part 5 (commencing with Section 7000) of Division 1 of Title 1 and Chapter 1 (commencing with Section 87000) of this part shall apply to all classified employees of a community college district, including those authorized in Sections 72405, 72419, and 72424, whether a merit or nonmerit system district as authorized by this chapter unless the section specifically limits its application to nonmerit system districts.

These provisions shall not apply to employees of a community college district lying wholly within a city and county which provides in its charter for a merit system of employment for employees employed in positions not requiring certification qualifications.

The positions authorized in Sections 72405, 72419, and 72424 may, by resolution of a governing board, be exempted from the provisions of Article 3 (commencing with Section 88060) of this chapter.

88001. Definitions as used in this chapter:

(a) "Classification" means that each position in the classified service shall have a designated title, a regular minimum number of assigned hours per day, days per week, and months per year, a specific statement of the duties required to be performed by the employees in each such position, and the regular monthly salary ranges for each such position.

(b) "Permanent" as used in the phrase "permanent employee" includes tenure in the classification in which the employee passed the required probationary period, and includes all of the incidents of that classification.

(c) "Regular" as used in the phrase "regular classified employee," or any similar phrase, refers to a classified employee who has probationary or permanent status.

(d) "Demotion" means assignment to an inferior position or status, without the employee's written voluntary consent.

(e) "Disciplinary action" includes any action whereby an employee is deprived of any classification or any incident of any classification in which he has permanence, including dismissal, suspension, demotion, or any reassignment, without his voluntary consent, except a layoff for lack of work or lack of funds.

(f) "Reclassification" means the upgrading of a position to a higher classification as a result of the gradual increase of the duties being performed by the incumbent in such position.

(g) "Layoff for lack of funds or layoff for lack of work" includes any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has permanence, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff.

(h) "Cause" relating to disciplinary actions against classified employees means those grounds for discipline, or offenses, enumerated in the law or the written rules of a public school employer. No disciplinary action may be maintained for any "cause" other than as defined herein.

The provisions of this section shall not apply to districts to which the provisions of Article 3 (commencing with Section 88060) of this chapter are applicable.

The provisions of this section shall not apply to any district which, during the 1973-74 school year, had an average daily attendance of 100,000 or more.

88002. For the purposes of this section every classified employee shall be deemed to be employed for 12 months during each school year regardless of the number of months in which he is normally in paid status. Any community college district which, in any school year, maintains school sessions at times other than during the regular September-June academic year shall assign for service during such times regular classified employees of the district. When it is necessary to assign classified employees not regularly so assigned to serve between the end of one academic year and the commencement of another, such assignment shall be made on the basis of qualifications for employment in each classification of service which is required. No classified employee whose regular yearly assignment for service excludes all, or any part of, the period between the end of the academic year in June to the beginning of the next academic year in September, shall be required to perform services during such period. A classified employee shall, for services performed as herein provided, receive, on a pro rata basis, not less than the compensation and benefits which are applicable to that classification during the regular academic year.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88003. The governing board of any community college district shall employ persons for positions not requiring certification qualifications. The governing board shall, except where Article 3

(commencing with Section 88060) of this chapter or Section 88137 applies, classify all such employees and positions. The employees and positions shall be known as the classified service. Substitute and short-term employees, employed and paid for less than 75 percent of a school year, shall not be a part of the classified service. Part-time playground positions, apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment, shall not be a part of the classified service. Full-time students employed part time, and part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of this division and which is financed by state or federal funds, shall not be a part of the classified service.

The term "short-term employees" as used in this section shall be construed to mean any person who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis.

"Seventy-five percent of a school year" means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of number of hours worked per day.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

This section shall apply only to districts not incorporating the merit system as outlined in Article 3 (commencing with Section 88060) of this chapter.

**88004.** Every position not defined by this code as a position requiring certification qualifications and not specifically exempted from the classified service according to the provisions of Section 88003 or 88076 shall be classified as required by those sections and shall be a part of the classified service. Such positions may not be designated as certificated nor shall the assignment of a title to any such a position remove the position from the classified service, nor shall possession of a certification document be made a requirement for employment in any such position.

Nothing in this section shall be construed to prohibit the employment of any individual in a position described by this section as part of the classified service who is in possession of certification qualifications, nor shall the possession of certification qualifications be grounds for the elimination of an individual for consideration for employment in such a position.

This section shall apply to districts which have adopted the merit system in the same manner and with the same effect as though it were a part of Article 3 (commencing with Section 88060) of this chapter.

**88005.** (a) Positions not requiring certification qualifications

created by a governing board of a school district under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall, nevertheless, be a part of the classified service as established by Section 88003 or Section 88076 of this code.

Persons employed in such positions shall be classified employees and shall enjoy all the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are a part of the regular school program.

(b) Notwithstanding the provisions of subdivision (a), if specially funded positions are restricted to employment of persons in low-income groups, from designated impoverished areas and other criteria which restricts the privilege of all citizens to compete for employment in such positions, all such positions shall, in addition to the regular class title, be classified as "restricted." Their selection and retention shall be made on the same basis as that of persons selected and retained in positions that are a part of the regular school program, except that persons employed in the following categories of restricted positions shall not be subject to the provisions of Section 88091 or 88092:

(a) The position of instructional aide, as defined in Section 88243.

(b) Any other position involving personal contacts with students or parents that is established to assist school-staff personnel responsible for school-community relations; educational support services for such areas as counseling, library or health; or the correction or prevention of behavioral problems.

Persons employed in positions properly classified as "restricted" shall be classified employees for all purposes except:

(1) They shall not be accorded employment permanency under Section 88013 or Section 88120 of the Education Code, whichever is applicable.

(2) They shall not acquire seniority credits for the purposes of Sections 88117 and 88127 of the Education Code or, in a district not having the merit (civil service) system, for the purposes of layoff for lack of work or lack of funds as may be established by rule of the governing board.

(3) The provisions of Sections 88106 and 88108 shall not apply to "restricted" employees.

(4) They shall not be eligible for promotion into the regular classified service or, in districts that have adopted the merit system, shall not be subject to the provisions of Section 88061, until they have complied with the provisions of subdivision (c).

(c) At any time, after completion of six months of satisfactory service, a person serving in a "restricted" position shall be given the opportunity to take such qualifying examinations as are required for

all other persons serving in the same class in the regular classified service. If such person satisfactorily completes the qualifying examination, regardless of final numerical listing on an eligibility list, he shall be accorded full rights, benefits and burdens of any other classified employee serving in the regular classified service. His service in the regular classified service shall be counted from the original date of employment in the "restricted" position and shall continue even though he continues to serve in a "restricted" position.

(d) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

(e) It is the intent of the Legislature in enacting this section to clearly set forth that positions normally a part of the classified service are included therein regardless of the source of income to sustain such positions and to effectively implement specially funded programs intended to provide job opportunities for untrained and impoverished persons but to do so in a manner that will not be disruptive nor detrimental to the normal employment procedures relating to classified school service.

88006. Notwithstanding the provisions of Section 88003 or Section 88076, which exempt certain types of positions or categories of personnel from the classified service of a community college district, persons serving in exempt positions or who serve in classified positions but are exempted from the classified service shall, nevertheless, be subject to the provisions of Sections 76406, 88021, 88022, 88023 and 88024. The governing board of every district shall, by rule or regulation, provide for the implementation of this section.

The provisions of this section shall not apply to full-time day students regularly attending in the district of employment.

88007. (a) The "act" as used in this section shall mean the Federal Emergency Employment Act of 1971 (Public Law 92-54) or any similar federal law hereafter enacted to provide transitional employment in public service positions for unemployed or underemployed persons.

(b) Funds derived from the act shall not be expended for work that: (1) would otherwise have been performed at federal, state, or local expense; (2) will not result in an increase over the employment which would otherwise be available; (3) which will result in the displacement of permanent members of the classified service (including partial displacement, such as reduction in the hours of nonovertime work or wages or employment benefits); (4) or which will impair existing rights of permanent members of the classified service.

(c) If during the term of a contract or renewal thereof, executed under the act, a community college district is engaged in layoffs for lack of work or lack of funds of permanent classified employees serving in regular positions and is employing personnel or contemplates employing personnel in like or reasonably similar

positions under the act, a report shall be submitted by the superintendent of schools to the governing board clearly demonstrating and substantiating the fact that the duties being performed by the permanent employees in regular positions who are being laid off will not be performed by personnel employed under the act.

Approval of the report by the governing board shall constitute its acceptance of the facts, as contained therein, and based thereon its affirmation of compliance with the contract executed under the act and this section.

This section shall apply to districts which have adopted the merit system in the same manner and with the same effect as though it were a part of Article 3 (commencing with Section 88060) of this chapter.

88008. If the governing board of a community college district establishes positions in the categories described below and restricts initial appointments of new employees to persons in low-income groups or residing in specifically designated areas of the community, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that (1) they shall not be subject to the provisions of Section 88091 or 88092, and (2) they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 88005.

The categories of positions for which the governing board may establish restrictions under this section are:

- (a) The position of instructional aide, as defined in Section 88243.
- (b) Any other position involving personal contacts with pupils or parents, that is established to assist school-staff personnel responsible for school-community relations; educational support services for such areas as counseling, library, or health; or the correction or prevention of behavioral problems.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

This section shall remain in effect only until January 31, 1979, and as of that date is repealed.

88009. Governing boards shall fix and prescribe the duties to be performed by all persons in the classified service and other positions not requiring certification qualifications of the community college district, except those persons employed as a part of a personnel commission staff as provided in Article 3 (commencing with Section 88060) of this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88010. Classified employees shall not be required to perform

duties which are not fixed and prescribed for the position by the governing board in accordance with Section 88009, unless the duties reasonably relate to those fixed for the position by the board, for any period of time which exceeds five working days within a 15-calendar-day period except as authorized herein.

An employee may be required to perform duties inconsistent with those assigned to the position by the governing board for a period of more than five working days provided that his salary is adjusted upward for the entire period he is required to work out of classification and in such amounts as will reasonably reflect the duties required to be performed outside his normal assigned duties.

Notwithstanding the provisions of this section, a personnel commission and governing board, or a governing board in a nonmerit system district, may, by written rule, provide for an upward salary adjustment for any classified employee required to work out of classification for any period of time less than that required herein.

It is the intent of this section to permit community college districts to temporarily work employees outside of their normal duties but in so doing to require that some additional compensation be provided the employee during such temporary assignments.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88011. No community college district may adopt or maintain any rule or regulation which requires a candidate for a position in the classified service to be a resident of the district or to become a resident of the district, or which requires that an employee maintain residency within the district; nor may a district grant preferential points or other preferential treatment to those candidates or employees who are residents of the district. This section shall not apply to restricted positions as provided for in Sections 88005 and 88008.

The Legislature in enacting this section recognizes that the public school system of this state is the property of all its citizens, and that all qualified candidates for positions in the classified service, regardless of residence, should be granted the opportunity to compete for and obtain such positions based solely on merit and fitness.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88012. If the governing board of any community college district employs staff assistants or field representatives to directly assist the governing board or individual governing board members in carrying out their policymaking duties, such assistants or representatives shall be members of the classified service, except that such assistants or representatives shall be exempt from all provisions of this code relating to obtaining a permanent status in any position in the

district, and procedures pertaining to the recruitment, appointment, classification, and salary of members of the classified service.

Staff assistants shall serve at the pleasure of a majority of the governing board, and each field representative appointed by the governing board to assist an individual member shall serve at the pleasure of such member.

It is the intent of the Legislature that persons employed under Section 88012 will not be utilized for election campaigns of board members during hours of their employment.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88013. The governing board of a community college district shall prescribe written rules and regulations, governing the personnel management of the classified service, which shall be printed and made available to employees in the classified service, the public, and those concerned with the administration of this section, whereby such employees are designated as permanent employees of the district after serving a prescribed period of probation which shall not exceed one year.

Any employee designated as a permanent employee shall be subject to disciplinary action only for cause as prescribed by rule or regulation of the governing board, but the governing board's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

The governing board shall adopt rules of procedure for disciplinary proceedings which shall contain a provision for informing the employee by written notice of the specific charges against him, a statement of his right to a hearing on such charges, and the time within which such hearing may be requested which shall be not less than five days after service of the notice to the employee, and a card or paper, the signing and filing of which shall constitute a demand for hearing, and a denial of all charges. The burden of proof shall remain with the governing board, and any rule or regulation to the contrary shall be void.

No disciplinary action shall be taken for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two years preceding the date of the filing of the notice of cause unless such cause was concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the employing district.

This section shall apply only to districts not incorporating the merit system as outlined in Article 3 (commencing with Section 88060) of this chapter.

88014. Notwithstanding the provisions of Section 88013, the governing board may lay off and reemploy classified employees only in accordance with procedures provided by Sections 88117 and 88127, except the term "personnel commission" therein shall be construed to mean the governing board. "Governing board" as used in this

section shall include districts governed by a common board or by different boards but with a common administration. Employees in common board or common administration districts shall, for the purpose of layoff for lack of work or funds, be considered as having been employed in a single district.

88015. Notwithstanding any other provision of law, any person who was subject to being, or was in fact, laid off for lack of work or lack of funds and who elected service retirement from the Public Employees' Retirement System shall be placed on an appropriate reemployment list. The district shall notify the Board of Administration of the Public Employees' Retirement System of the fact that retirement was due to layoff for lack of work or of funds. If he is subsequently subject to reemployment and accepts, in writing, the appropriate vacant position, the district shall maintain the vacancy until the Board of Administration of the Public Employees' Retirement System has properly processed his request for reinstatement from retirement.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88016. A notice of disciplinary action shall contain a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based, a statement of the cause for the action taken and, if it is claimed that an employee has violated a rule or regulation of the public school employer, such rule or regulation shall be set forth in said notice.

A notice of disciplinary action stating one or more causes or grounds for disciplinary action established by any rule, regulation, or statute in the language of the rule, regulation, or statute, is insufficient for any purpose.

A proceeding may be brought by, or on behalf of, the employee to restrain any further proceedings under any notice of disciplinary action violative of this provision.

This section shall apply to proceedings conducted under the provisions of Article 3 (commencing with Section 88060) of this chapter.

88017. (a) When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of such school year shall be given written notice on or before May 29 informing them of their layoff effective at the end of such school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, such notice shall be given not less than 30 days prior to the effective date of their layoff.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be

given notice of layoff not less than 30 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

(c) Nothing herein provided shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries of classified employees, nor layoff for lack of work resulting from causes not foreseeable or preventable by the governing board, without the notice required by subdivisions (a) or (b) hereof.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88018. Any division, uniting, unionization, annexation, merger, or change of community college district boundaries shall not affect the rights of persons employed in positions not requiring certification qualifications to continue in employment for not less than two years and to retain the salary, leaves and other benefits which they would have had had the reorganization not occurred, and in the manner provided in this article:

(a) All employees of every community college district which is included in any other district, or all districts included in a new district, shall become employees of the new district.

(b) When a portion of the territory of any district becomes part of another district employees regularly assigned to perform their duties in the territory affected shall become employees of the acquiring district. Employees whose assignments pertained to the affected territory, but whose employment situs was not in such territory, may elect to remain with the original district or become employees of the acquiring district.

(c) When the territory of any district is divided between or among two or more districts and the original district ceases to exist, employees of the original district regularly assigned to perform their duties in any specific territory of such district shall become employees of the district acquiring the territory. Employees not assigned to specific territory within the original district shall become employees of any acquiring district at their election.

(d) Employees regularly assigned by the original district to any school in said district shall be an employee of the district in which said school is located. Except as herein provided, nothing herein shall deprive the governing board of the acquiring district from making reasonable reassignments of duties.

88019. Whenever, by reason of any reorganization, other than the unification of districts, all or part of the territory of any community college district which has adopted the merit system is included within any district, or in any new district, the governing board of the acquiring or new district shall adopt such merit system. In the event that any district simultaneously acquires all or part of the territory of two or more districts which have previously adopted the merit system the governing board of the acquiring or new district shall adopt a merit system containing such provisions as are necessary to

afford to all employees the rights guaranteed by this section. The employees of the reorganized or new district shall retain all rights and privileges as if they had been employed under the provisions of Article 3 (commencing with Section 88060) of this chapter, with seniority commencing as of the date of original employment in their original district. Where there are more than a sufficient number of employees for a given classification under the provisions of Article 3 (commencing with Section 88060) of this chapter, such personnel shall be retained in employment for a period of not less than two years as if the reorganization had not occurred but without prejudice to the powers of the personnel commission and governing board of the reorganized district to reasonably reassign such persons. If at the expiration of such period, upon a finding made by the personnel commission that there are excess personnel in any given classification, such personnel shall, if the governing board so directs, be placed upon appropriate reemployment lists for 39 months and, if so placed, shall be offered and may accept positions of lower rank in their line of promotion in the order of seniority as established by this section in accordance with rules drawn in compliance with the provisions of Article 3 (commencing with Section 88060) of this chapter. The acceptance of a position in lower rank in accordance herewith shall not be deemed to constitute a waiver of the right to reemployment at the original level should a vacancy at such level occur within the period mentioned in this section.

88020. Any person not a student or substitute employee, who has been employed in a community college bookstore maintained by a student body organization pursuant to Section 81675 for a period of at least six months immediately preceding becoming a member of the classified service pursuant to Section 81676, shall, without examination, be deemed to be a permanent classified service employee of the community college district.

Any person not a student or substitute employee employed in a community college bookstore maintained by a student body organization pursuant to Section 81675 for less than six months immediately preceding becoming a member of the classified service pursuant to Section 81676 shall, without examination, be deemed to be a probationary classified employee of the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88021. Whenever a governing board of a community college district requires a physical examination to be taken by a classified employee or employees, either by rule or by its direction or the direction of its authorized district administrator; or when classified employees are required by law to submit to a physical examination for continuance in employment, the board shall either provide the required examination, cause it to be provided, or provide the employee with reasonable reimbursement for the required examination.

If the governing board requires a physical examination or an examination is required by law as a condition of preemployment, it may cause the required examination to be given. It may, if an applicant is required to take a preemployment physical examination, provide for reasonable reimbursement if the applicant is subsequently employed by the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88022. No person shall be employed or retained in employment by a community college district who has been convicted of any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

Nothing in this section shall prohibit the employment by a district of a person convicted of a narcotics offense involving the use or possession of marijuana if the governing board of the district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

88023. No person shall be employed or retained in employment by a community college district who has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

88024. The governing board of any community college district shall, within 10 working days of date of employment, require each person to be employed, or employed in, a position not requiring certification qualifications to have two 8" x 8" fingerprint cards bearing the legible rolled and flat impressions of such person's fingerprints together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the district, which agency shall transmit such cards, together with the fee hereinafter specified, to the Department of Justice; except that a district, or districts with a common board, having an average daily attendance of 60,000 or more may process the fingerprint cards in the event the district so elects. "Local public law enforcement agency" as used herein and in Section 88025 includes a community college district with an average daily attendance of 60,000 or more. Upon

receiving such identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as such fact can be ascertained from information available to the department and forward such information to the local public law enforcement agency submitting the applicant's or employee's fingerprints at the earliest possible date. At its discretion, the Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee.

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section. The Department of Justice shall direct when such cards are to be forwarded to it for processing which in no event shall be later than two years from the date of enactment of this section. Districts which have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of such fee shall be forwarded to the Department of Justice, with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two dollars (\$2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. Such additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, such fee may be reimbursed to the applicant. Funds not reimbursed applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. The provisions of this section shall not apply

to a district, or districts with a common board, which has an average daily attendance of 400,000 or greater, or to a community college district wholly within a city and county, unless the governing board of such district or districts, by rule, provides for adherence to this section.

88025. Any provision of law to the contrary notwithstanding, the Department of Justice, shall, as provided in Section 88024, furnish, upon application of a local public law enforcement agency all information pertaining to any such person of whom there is a record in its office.

88026. The workweek of a classified employee, as defined in Section 88033 or Section 88076, shall be 40 hours. The workday shall be eight hours. These provisions do not restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the district. Nothing in this section shall be deemed to bar the district from establishing a workday of less than eight hours or a workweek of less than 40 hours for all or any of its classified positions.

Notwithstanding the provisions of this section and Section 88027, a governing board may, with the approval of the personnel commission, where applicable, exempt specific classes of positions from compensation for overtime in excess of eight hours in one day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. Such exemption shall be applied only to those classes which the governing board and personnel commission, where applicable, specifically find to be subject to fluctuations in daily working hours not susceptible to administrative control, such as security patrol and recreation classes, but shall not include food-service and transportation classes.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88027. The governing board of each community college district shall provide the extent to which, and establish the method by which ordered overtime is compensated. The board shall provide for such compensation or compensatory time off at a rate at least equal to time and one-half the regular rate of pay of the employee designated and authorized to perform the overtime.

Overtime is defined to include any time required to be worked in excess of eight hours in any one day and in excess of 40 hours in any calendar week. If a governing board establishes a workday of less than eight hours but seven hours or more and a workweek of less than 40 hours but 35 hours or more for all of its classified positions or for certain classes of classified positions, all time worked in excess of the established workday and workweek shall be deemed to be overtime. The foregoing provisions do not apply to classified positions for which a workday of fewer than seven hours and a workweek of fewer than 35 hours has been established, nor to positions for which a workday of eight hours and a workweek of 40

hours has been established, but in which positions employees are temporarily assigned to work fewer than eight hours per day or 40 hours per week when such reduction in hours is necessary to avoid layoffs for lack of work or lack of funds and the consent of the majority of affected employees to such reduction in hours has been first obtained.

For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

**88028.** When compensatory time off is authorized in lieu of cash compensation, such compensatory time off shall be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

**88029.** Notwithstanding the provisions of Sections 88026 and 88027, a personnel commission, when applicable, or a governing board of a community college district may specify certain positions or classes of positions as supervisory, administrative, or executive and exclude the employees serving in such positions and the positions from the overtime provisions.

To be excluded from such overtime provisions, the positions or classes of positions must clearly and reasonably be management positions. In approving positions or classes of positions for exclusion from the overtime provisions, the personnel commission, when applicable, or the governing board of a district shall certify, in writing, that the duties, flexibility of hours, salary, benefit structure, and authority of the positions or classes of positions are of such a nature that they should be set apart from those positions which are subject to the overtime provisions, and that employees serving in such excluded positions or classes of positions will not be unreasonably discriminated against as a result of the exclusion.

Notwithstanding the provisions of this section, if a person serving in an excluded position is required to work on a holiday, as provided for in this code, or by action of a governing board, he shall be paid, in addition to his regular pay for the holiday, compensation, or given compensating time off, at a rate not less than his normal rate of pay.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

**88030.** Notwithstanding the provisions of Section 88026 the workweek shall consist of not more than five consecutive working days for any employee having an average workday of four hours or

more during the workweek. Such an employee shall be compensated for any work required to be performed on the sixth or seventh day following the commencement of the workweek at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

An employee having an average workday of less than four hours during a workweek shall, for any work required to be performed on the seventh day following the commencement of his workweek, be compensated for at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

Positions and employees excluded from overtime compensation pursuant to Section 88029 shall likewise be excluded from the provisions of this section.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88031. Notwithstanding the provisions of Section 88030, a governing board of a district may establish a 10-hour-per-day, 40-hour, four-consecutive-day workweek for all, or certain classes of its employees, or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of five consecutive days, provided the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees as ascertained through the employee organization representing a majority of the concerned employees or class, or classes, of employees, as determined by the payroll deduction authorizations for dues in classified employee organizations on file with the district on the last day of the month next preceding the date the board action was taken.

Where a board has previously established the workweek of not less than 35 hours, it may require the established workweek to be performed in four consecutive days by any class or classes of employees or by employees within a class, when by reason of the work location and duties actually performed by such employees their services are not required for a workweek of five consecutive days, with the concurrence of employee personnel as provided herein.

When a four-day workweek is established, the overtime rate shall be paid for all hours worked in excess of the required workday, which shall not exceed 10 hours. Work performed on the fifth, sixth and seventh days shall be compensated for at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

An employee working an average workday of five hours or less during a workweek shall, for any work required to be performed on the sixth or seventh day following the commencement of his workweek, be compensated for at a rate equal to  $1\frac{1}{2}$  times the regular rate of pay of the employee designated and authorized to perform the work.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88032. In any community college district situated wholly within the boundaries of a city having a population of more than five hundred thousand (500,000) but not exceeding five hundred fifty thousand (550,000) as determined by the 1920 federal census, the janitors and other employees of the district shall be employed in the same manner and under the same conditions as instructors are employed by the district and when employed shall be removed only for cause and after charges have been filed and heard by the board of education.

All employees who have been in the service of the school district continuously for a period of one year prior to July 27, 1917, shall be deemed to have been so employed.

The board of education may make and enforce all necessary rules and regulations to carry out the provisions of this section.

88033. (a) Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons a part of the classified service.

(b) Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any school employment who is otherwise qualified therefor.

(c) This section does not authorize the employment of any person in particular school employment who has reached the retirement age for that particular employment prescribed by any retirement system applicable thereto, whether or not the person is a member of the retirement system, or entitled to a retirement salary thereunder, nor shall any person be employed in such employment while he is receiving a retirement allowance under any retirement system by reason of prior school employment.

(d) The provisions of subdivision (c) shall be inapplicable to persons who were employed in the classified service of any community college district as of September 18, 1959, and who are still in the employ of the same district on the effective date of this subdivision, and the rights of such persons shall be fixed and determined as of September 18, 1959; and no such person shall be deprived of any right to any retirement allowance or eligibility for any such allowance to which he would have been entitled as of that date. Any such person who, by reason of any provision of law to the contrary, has been deprived of any right to retirement allowance or eligibility for such an allowance, shall, upon the filing of application therefor, be reinstated to such rights as he would have had had this subdivision been in effect on September 18, 1959.

(e) This section shall apply to districts that have adopted the

merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter, except that in a community college district governed by the same governing board, in which the combined average daily attendance of all districts is in excess of 400,000, the permanent classification of any employee who is classified as a permanent employee under the provisions of Article 3 (commencing with Section 88060) of this chapter shall cease at the close of the fiscal year in which the employee reaches the age of 65 years. In such district or districts the employment, or continued employment of any employee beyond the close of the fiscal year in which he reaches the age of 65 years shall be at the discretion of the governing board of the district, which may, at its pleasure, terminate the services of such employee at any time. Employment beyond age 65 in such districts shall be in accordance with rules and regulations governing such employment approved by the personnel commission, and adopted by the governing board of the district.

88034. Notwithstanding the provisions of subdivision (c) of Section 88033, a retired classified school employee may be employed by a community college district, but only in accordance with the provisions of Article 5 (commencing with Section 21150) of Chapter 8 of Part 3 of Division 5 of Title 2 of the Government Code.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88035. All probationary and permanent part-time classified employees shall be entitled to sick leave, and all other benefits conferred by law on classified employees. Part-time employees shall be entitled to all leaves and benefits granted by the governing board to a majority of the regular full-time employees in the classified service of the district or to regular full-time employees in the same classified positions or general class of positions; but such leaves and benefits may be prorated in the same ratio as the regular work hours per day, days per week, weeks per month, or months per year of such part-time employees bear to eight hours per day, 40 hours per calendar week, four calendar weeks per month, or 12 calendar months during the school year.

Except for prorating benefits for part-time employees as herein authorized, the governing board shall provide at least the same benefits for all regular employees in the classified service as it provides for the majority of such employees.

Nothing in this section shall be construed to prohibit the granting of additional benefits for some employees in recognition of nature of work, level of classification, or length of service.

This section shall not apply to employees properly designated as substitute, short-term, or limited-term employees, as defined in Sections 88003 and 88105, unless such employees are specifically included by a governing board, or by a personnel commission for those districts included under the provisions of Article 3

(commencing with Section 88060) of this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

This section shall not apply to those benefits authorized under the provisions of Article 1 (commencing with Section 53200) of Chapter 2 of Part 1, of Division 2 of Title 5 of the Government Code.

88036. A classified employee who works a minimum of 30 minutes per day in excess of his part-time assignment for a period of 20 consecutive working days or more, shall have his basic assignment changed to reflect the longer hours in order to acquire fringe benefits on a properly prorated basis as specified in Section 88035.

If a part-time employee's average paid time, excluding overtime for which the employee receives compensation at a rate at least equal to time and one-half, exceeds his average assigned time by 50 minutes or more per working day in any quarter, the hours paid per day for compensable leaves of absence and holidays in the succeeding quarter shall be equivalent to the average hours paid per working day in the preceding quarter, excluding overtime.

Except where vacation entitlement is accrued on the basis of actual hours of paid regular service, vacation entitlement shall be based on the average number of hours worked per working day during the portion of the school year in which the employee is assigned to duty.

It is the intent of the Legislature, in enacting this section, to insure that part-time employees are accorded fringe benefits on an appropriate prorated basis with full recognition given to the number of hours worked by the part-time employee rather than on the basis of time fixed to the position when the fixed time is not reasonably correlated with the actual time worked. This section is to be liberally construed in order that the provisions of Section 88035 may not be circumvented by requiring employees to work in excess of the regularly fixed hours for a position on an overtime basis but for which premium pay is not provided nor appropriate adjustment is not made in fringe benefit entitlement.

88037. The governing board of any community college district may require the wearing of a distinctive uniform by classified personnel. The cost of the purchase, lease or rental of uniforms, equipment, identification badges, emblems, and cards required by the district shall be borne by the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

## Article 2. Inclusion in the Merit System

88050. (a) "Common board" as used in this article means a board with identical members that governs more than one school district. "Common administration" as used in this section means the

administration by a person employed by governing boards of more than one district or a common board to act as chief executive officer for more than one school district.

(b) The term "a district whose average daily attendance is 3,000 or greater" shall be construed to include any district which is the only district under the jurisdiction of the county superintendent of schools regardless of its average daily attendance. It shall also include districts governed by a "common board" or which use a "common administration," as defined in this section.

88051. (1) On or after November 8, 1967, the classified employees of any district whose average daily attendance is 3,000 or greater, may, in accordance with this article, petition the governing board to make the provisions of Article 3 (commencing with Section 88060) of this chapter applicable to their employer district. Said petition shall read substantially as follows:

"We, the undersigned classified employees of the \_\_\_\_\_ (name of school district), constituting 15 percent of the classified personnel entitled to vote, request the governing board to submit to election the question of whether or not the merit (civil service) system shall become applicable to this district.

NAME \_\_\_\_\_ POSITION CLASSIFICATION"

"Classified employee" as used in this section shall be construed to include all personnel a part of the classified service as defined in Section 88003.

(2) Within 120 days after receipt of the petition the governing board shall: (a) Obtain the services of competent and qualified persons to present the pros and cons of the issue.

(b) Provide adequate and ample opportunity for all of its classified personnel to attend one or more meetings at which the issue is presented.

(c) Having complied with subsections (a) and (b), foregoing, conduct an election by secret ballot of its classified personnel to determine whether or not they desire to have the merit system applicable to the district. The ballot shall read:

"Shall the merit (civil service) system for classified employees be applicable in the \_\_\_\_\_ (name of school district)?

Yes  
 No"

The ballot shall not require the employees' signatures or other personal identifying requirements, but the board shall devise an identification system to insure against fraud in the balloting process.

(d) The board shall appoint a three- or five-person tabulating committee, at least one member of which shall be a member of the governing board, to canvass the ballots and present the results to the governing board. If a simple majority votes in favor of the merit system the same shall become applicable in the district.

(e) The tabulating committee required by this section shall certify the results of the election to the governing board at the next regular or special meeting of the board following the date the

committee completes tabulation of the votes. If the tabulating committee completes the tabulation on the same day as the governing board meets in regular or special session, the committee shall certify the results of the election to the board at such meeting.

88052. Effective upon certification to a governing board by a tabulating committee that an election, as authorized in Section 88051 of this code, has been successful, all of the provisions of Article 3 (commencing with Section 88060) that can reasonably be construed to be applicable to classified employees shall be applicable.

All of the provisions of Article 3 (commencing with Section 88060) shall become fully effective upon appointment of at least two members of the personnel commission.

The commission shall immediately adopt existing rules and regulations of the district relating to classified personnel pending the establishment of its rules and which are not inconsistent with law.

88053. The governing board of a community college district whose average daily attendance is less than 3,000 may, by affirmative vote of a majority of its members, adopt the procedure set forth in Article 3 (commencing with Section 88060) of this chapter. The motion or a resolution for adoption of the system shall specify the date that the provisions of Article 3 (commencing with Section 88060) shall be applicable to the classified employees of the district, which shall not be later than July 1 next following the date of adoption.

88054. The governing board of a community college district whose average daily attendance is 3,000 or more may, by affirmative vote of a majority of its members, and a county superintendent of schools, with the consent of the majority of the members of the county board of education, adopt the procedure set forth in Article 3 (commencing with Section 88060) of this chapter, provided a lawful petition has not been received as authorized in Section 88051, or may adopt the procedure at any time after a two-year period has elapsed following an unsuccessful election conducted in accordance with Section 88051.

The motion, order, or resolution for adoption of the procedure shall specify the date that the provisions of Article 3 shall be applicable to classified employees, which shall not be later than July 1 next following the date of adoption.

88055. When an election has been held, as authorized in this article, and fails to receive a simple majority affirmative vote, the classified employees of that district may not again petition for an election until at least two years has elapsed since the last election.

88056. Any person who intimidates, coerces, or discriminates in any way against any classified employee for the doing of any act authorized herein shall be personally liable to such employee for all damages suffered thereby and such exemplary damages as the court may allow.

88057. The procedure set forth in Article 3 (commencing with Section 88060) of this chapter may also be adopted by a majority of

the voting electors of the school districts assenting to the plan after it has been placed on the ballot upon the written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the governing board. The question of adoption shall be placed on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is earlier after receipt of the petition by the registrar of voters.

The ballot measure shall specify the date that the provisions of Article 3 (commencing with Section 88060) of this chapter shall be applicable to classified employees which shall not be later than July 1 next following the date of adoption.

### Article 3. Merit System

88060. Any community college district adopting the provisions of this article in accordance with Section 88052 or 88057 of this chapter shall cause the personnel commission to be appointed in the manner prescribed in Sections 88065, 88066 and 88067. The personnel commission shall appoint the personnel director in the manner provided in Section 88084 after appointment of at least two of its members.

88061. In any district in which the procedure set forth in this article has been incorporated the governing board shall employ, pay, and otherwise control the services of persons in positions not requiring certification qualifications only in accordance with the provisions of this article.

No governing board shall remove a position from the classified service by title assignment or otherwise which would then require an incumbent to be credentialed if such position is not required by this code to be designated as certificated.

88063. In any district which has adopted the provisions of this article there shall be appointed a personnel commission composed of three members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In such cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

88064. To be eligible for appointment or reappointment to the commission a person shall (a) be a registered voter and resident within the territorial jurisdiction of the community college district and (b) be a known adherent to the principle of the merit system. No member of the governing board of any community college district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the commission. During his term of service, a member of the commission shall not be an employee of the district.

As used in this section, "known adherent to the principle of the

merit system," with respect to a new appointee, shall mean a person who by the nature of his prior public or private service has given evidence that he supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness. As used in this section, "known adherent to the principle of the merit system," with respect to a candidate for reappointment, shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that he does, in fact, support the merit system and its operation.

88065. One member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an organization of classified employees which represents the greatest number of classified employees of the district as determined by the board exercising its authority under Section 7110 of this code. If there is no such organization existing within the district the governing board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.

88066. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee, and the appointee nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the two members shall appoint the third member. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If such two members do not make an appointment within the 30-day period, the Executive Officer of the State Personnel Board shall make the appointment.

"Adoption of the system" means, in the case of Section 88051, the day on which a successful election is certified to the governing board or, in the case of Section 88054, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee of the governing board and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

(c) Where a system is already in existence and a vacancy in the position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that

nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and subdivision (b) (1), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board shall then appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 88065. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

88067. An appointee to a commission in a district which has newly adopted the system shall take office upon receipt of notification of his appointment but his term of office shall run from noon of the first day of December next succeeding.

The initial appointee of the governing board shall serve a three-year term, and the term of the appointee recommended by classified employees and the Executive Officer of the State Personnel Board shall be for two years and one year respectively.

Subsequent terms shall be for three years commencing at noon the first day of December.

The commission may perform any act authorized or required by law when two members have been appointed.

88068. (a) Appointment to vacancies occurring subsequent to the initial appointment shall be made by the original appointing authority either for a new full term or to fill an unexpired term. The procedures required in Sections 88065 and 88066 shall be followed in the appointment and recommendation for appointment to fill vacancies occurring subsequent to the initial appointments.

(b) Notwithstanding subdivision (a) the governing board at the request of the personnel director shall declare that an emergency exists and shall make an interim appointment to fill a vacancy or vacancies to insure the continuance of the functions of the personnel commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

(c) An interim appointee must meet the requirements of Section 88064 and be free of the restrictions contained therein.

(d) An interim appointment in no event shall be valid for more than 60 days.

88069. In a community college district which has already adopted the provisions of this article on September 17, 1965, members of the personnel commission shall continue to be appointed alternately by the board of governors and by the Executive Officer of the State Personnel Board, each of whom may consider the recommendation of the governing board and other interested parties.

88070. The governing board may authorize payment to members of the commission an amount not to exceed fifteen dollars (\$15) per meeting and not to exceed seventy-five dollars (\$75) per month.

88071. In a community college district with an average daily attendance in excess of 40,000 and which is located in a metropolitan area with a population of more than 4,000,000, the governing board may authorize payment to members of the commission an amount not to exceed thirty dollars (\$30) per meeting, and not to exceed one hundred fifty dollars (\$150) per month.

88072. The governing board shall provide the commission with suitable office accommodations.

88073. The commission shall prepare an annual budget for its own office which, upon the approval of the county superintendent of schools, shall be included by the governing board in the regular budget of the community college district. The annual budget of the commission may include amounts for the purposes of Section 88075.

The budget shall be prepared for a public hearing by the commission to be held not later than May 30 of each year. The commission shall forward a copy of its proposed budget to the governing board indicating the time, date and place for the public hearing of the budget and shall invite board and district administration representatives to attend and present their views. The commission shall fully consider the views of the governing board prior to adoption of its proposed budget. The commission shall then forward its proposed budget to the county superintendent of schools for action.

If the county superintendent of schools proposes to reject the budget as submitted by the commission, he shall, within 30 days after the commission's submission of the budget, hold a public hearing on the proposed rejection within the affected district. He shall have informed both the commission and the governing board of the date, time and place of the hearing. He may after such public hearing either reject, or, with the concurrence of the commission, amend the proposed budget. In the absence of agreement between the personnel commission and the county superintendent the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

88074. The budget for the first year shall be determined by the governing board. Pending receipt of money raised in the manner prescribed in this article, the governing board may advance funds for the establishment of the work of the commission.

88075. The commission may, with respect to the staff of the commission, expend funds for their orientation, training, retraining,

and development and for any purpose prescribed by Article 7 (commencing with Section 88220) of this chapter.

88076. The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service. The employees and positions shall be known as the classified service. Exempt from the classified service shall be:

- (a) Positions which require certification qualifications,
- (b) Part-time playground positions,
- (c) Full-time students employed part time,
- (d) Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of this division and which is financed by state or federal funds,
- (e) Apprentice positions,
- (f) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87½ percent of the normally assigned time of the majority of employees in the classified service.

88077. Nothing contained in Section 88076 shall be interpreted to exclude the employment of architectural and engineering firms employed on a temporary basis for a specific project by a governing board or the commission when so designated by the commission.

88078. In addition to the exemptions authorized in Section 88076, there shall be exempt from the classified service positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days in a fiscal year, provided that:

- (1) The authorized duties are not those normally assigned to a class of positions in the classified service,
- (2) The authorized duties are approved by the personnel commission in advance of employment, and
- (3) A regular classified employee of the community college

district shall not receive a concurrent appointment to such a position.

88079. If the governing board of any community college district establishes positions and restricts initial appointment of new employees to persons having mental handicaps, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 88003.

88080. The commission shall prescribe and amend, subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall be binding upon the governing board.

88081. The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, service ratings, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

88082. The rules of the commission and copies of this article shall be printed and made available to each school, office, and permanent worksite where employees report and shall be distributed to school libraries for loan to employees.

Within one year of when a district adopts the merit system, the commission shall adopt rules pursuant to Section 88080 and shall give to each new regular employee a handbook which summarizes the basic rules and working conditions for classified employees and provides information regarding access to copies of the complete rules and the merit system.

88083. The commission may classify as apprentice positions certain positions where the principal requirement is that of learning to perform efficiently, by study and practice, specific duties concerning which a definite plan of systematic instruction and special supervision has been approved by the California Apprenticeship Council for the designated trade.

The apprenticeship training plan adopted by the governing board of the community college district must be approved by the California Apprenticeship Council.

No assignment to any position classified as an apprentice position shall be allowed to continue beyond the predetermined apprenticeship period approved by the California Apprenticeship Council for the designated trade, except that the school district's joint apprenticeship committee may approve retention of an

employee as an apprentice up to six months beyond the predetermined apprentice period.

Selection of eligibles shall be made in accordance with their position on employment lists established by competitive or qualifying examinations.

The provisions of Section 88033 shall be applicable to apprentice positions, provided that relative age may be considered as a factor in the ranking of candidates for apprentice positions.

Credit for prior training in a regularly indentured apprenticeship program shall be given to qualified candidates.

In all cases of apprenticeship probationary periods, the standards of duration and qualifications shall be fixed by the commission insofar as they do not exceed the maximum standards set up by the California Apprenticeship Council. Termination for cause may be prescribed for any apprentice who fails to attain the predetermined standards of apprenticeship or for causes as prescribed by the rules of the commission.

The commission shall recommend to the governing board a graduated scale of compensation rates for the various levels of apprentices, taking into consideration the percentage relationship to the districts' journeyman wage of the trade as provided in the statement of policies of the California Apprenticeship Council.

The commission may determine that promotional examinations shall be held for entrance into various levels of apprentice positions and entrance into journeyman positions in a skilled trade.

88084. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall also appoint all other employees paid from funds budgeted for the support of the commission from eligibility lists established pursuant to the provisions of this article. Such employees shall be classified employees of the community college district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district.

88085. Notwithstanding the provisions of Section 88084, the personnel commission, in a community college district employing 100 or fewer classified employees, may, with the consent of a majority of the classified employees, contract for the services of a qualified personnel director with another school district having the merit (civil service) system, or a city or a county governmental agency if the city or county has a civil service system for the management of its employee personnel.

Such a contract shall be for not more than two years and may be extended, with the approval of a majority of the classified employees, for additional periods not to exceed two years at one time.

If at the end of any contract period the district is employing more than 100 classified employees, the personnel commission shall then comply with the provisions of Section 88084.

A contract approved under the provisions of this section shall become null and void in the event of district reorganization when the provisions of the contract, if continued in force would supersede or be in conflict with the provisions of Section 88019.

88086. The personnel director shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with this article and the rules of the commission. He shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board.

88086.5. The provisions of Sections 88022, 88023, 88160, 88198, 88199, 88201, and 88022 are applicable to the employees of school districts which have adopted a merit system pursuant to the procedure set forth in this article.

This section is declaratory of existing law. The sections here enumerated are to be construed and applied in the same manner and with the same effect as when they were applicable to the employees of such school districts prior to the enactment of Section 88000 by Chapter 1267 of the Statutes of 1959, and in accordance with the applicable provisions of this article and the rules of the personnel commission.

88087. The commission shall recommend to the governing board salary schedules for the classified service. The governing board may approve, amend, or reject these recommendations. No amendment shall be adopted until the commission is first given a reasonable opportunity to make a written statement of the effect the amendments will have upon the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the commission.

88088. Any person who has been continuously employed in a position defined as a position in the classified service for a period of six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to be in the permanent classified service. No layoff or suspension of service during the time when the schools of the district are not in session shall count as an interruption of continuous service.

88089. All persons who have been continuously employed by a community college district for less than six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to hold their positions under probationary classification.

88090. Any employee serving in a certificated position whose position is by virtue of change of law deemed to be in the classified service shall without examination become a member of the classified service in accordance with the terms of Sections 88088 and 88089. Full seniority rights shall be retained, except that no seniority credit shall be allowed by virtue of previous certificated service in case of layoff for lack of funds or lack of work.

Any employee serving in a classified position whose position is by virtue of change of law deemed to be in the certificated service shall without examination become an employee of the certificated service and shall be deemed to have the necessary certification qualifications for such position. Full seniority rights will be retained, except that no seniority credit will be allowed by virtue of previous classified service in case of layoff for lack of funds or lack of work. Any such person who has been continuously employed in a regular position in the classified service for the length of time necessary to acquire permanency as a certificated employee shall be deemed to be a permanent certificated employee of the district. Any such person serving in a regular position in the classified service for an amount of time less than that deemed to be necessary to acquire permanency as a certificated employee shall be a certificated probationary employee of the district; such regular classified service shall be considered as probationary service toward the attainment of permanency by a certificated employee of the district.

88091. All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. Appointments shall be made from the first three applicants on the eligibility list who are ready and willing to accept the position. In examinations for classes designated as technical, professional, administrative, or executive by the commission, final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

88092. Examinations shall be administered objectively and shall consist of at least two independent parts.

For classes of positions deemed by the commission to require an oral examination, the oral examination board shall include at least two members.

Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral examination board shall confine itself

to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area. Members of the governing board or personnel commission shall not serve on an oral examination board. A district employee may serve on an oral examination board if he is not at the first or second level of supervision over a vacant position in the class for which the examination is held.

The personnel commission shall provide for the proceedings of all oral examinations to be electronically recorded. In no case will an oral examination board be provided with confidential references on employees of the district who are competing in promotional examinations. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board.

88093. Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate, shall be retained by the commission for a period of not less than 90 days after promulgation of an eligibility list. The commission shall prescribe procedures whereby candidates may review and protest any part of an examination. In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the eligibility list. Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his representative.

88094. In a community college district which has already adopted the provisions of the merit system article on September 17, 1965, appointments shall be made from the first three applicants on the eligibility list who are ready and willing to accept a position, provided that: (a) one of the top two eligibles is a relative, within the first degree of consanguinity, of an employee already working at the location where a specific position vacancy exists, or (b) one is the parent or legal guardian of an enrollee in the same elementary or secondary school or children's center where a specific position vacancy exists.

88095. The governing board shall fix the duties of all positions a part of the classified service as required by Section 88009. The board may recommend the minimum educational and work experience requirements for classified positions to the personnel commission. Minimum qualification requirements shall be subject to approval of the commission.

In approving minimum educational and work experience requirements for classified positions, the commission shall insure that such requirements reasonably relate to the duties of the position, as established by the governing board, and that they will admit an

adequate field of competition. No requirements may be approved which unduly or unreasonably restrict the field of competition.

The position duties shall be prescribed by the board and qualification requirements for the position class shall be prepared and approved by the commission, as required by this section, prior to issuance of an announcement calling for a competitive examination to fill position vacancies.

88096. Appointments may be made from other than the first two or three, as the case may be, applicants on the eligibility list when the ability to speak, read, or write a language in addition to English or possession of a valid driver's license is a requirement of the position to be filled. The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class. Where such a position is to be filled, using the authority of this section, the appointment shall be made from among the highest two or three, as the case may be, applicants on the appropriate eligibility list who meet the special requirements and who are ready and willing to accept the position. If there are insufficient applicants who meet the special requirements, the commission shall certify the top applicant or applicants plus those applicants who meet the special requirements, not to exceed two or three candidates, as the case may be.

88097. Written notices concerning tests, vacancies, transfer opportunities, and other such selections of shifts, positions, assignments, classifications, or locations shall be posted at all work locations of employees who may be affected not later than 15 working days prior to the closing date of filing appropriate applications, together with the normal use of newspapers and bulletins for public notice for open or promotional vacancies. Whenever the subject of such notices may affect a probationary or permanent classified employee who will not be reporting at his work location during periods when such employee is not normally required to work, such as Christmas, Easter, summer recesses, and other paid or unpaid leaves of absences, including vacations, and who has previously requested notification, such notices shall be mailed to the employee. However, the failure of an employee to receive such notice shall not invalidate any procedure, if in fact the notice was placed in the mail and postage paid.

The foregoing provisions shall not apply to any school district which publishes and distributes to all work locations examination bulletins at least once each month, provided that records of employee requests for transfer and change of location are maintained and that the names of all candidates for transfer and change of location to a vacancy are certified to the appointing authority along with names of appropriate applicants from employment lists.

The personnel commission shall establish procedures for the maintenance of employee requests for transfer, change of location,

change of shift, and notification of forthcoming examinations.

88098. A regular employee who is determined by the governing board to be incapable of performing the duties of his class because of illness or injury may, at the discretion of the governing board, be assigned duties which he is capable of performing. The position to which he is assigned shall be subject to classification by the personnel commission, but the employee shall receive no increase in wage or salary because of his assignment to the position unless he is appointed from an eligibility list resulting from a competitive examination in the event that the position is classified and allocated to a higher wage or salary than that previously attained by the employee, he may be assigned to the position without competitive examination, but shall continue to receive the wage or salary of his former classification. If the position is classified and allocated to a lower wage or salary than that attained by the employee, he shall be paid the wage or salary appropriate to the position.

88099. The commission shall, by rule, provide for an open competitive examination and a promotional examination to be held at the same time for the position of business manager or for any other single position class which it declares to be at or above the level of business manager. It shall require that all educational and work experience requirements be developed to fit the needs of the position in such a manner that the position will attract competent and qualified applicants from within the classified service, among certificated personnel, or other persons meeting the minimum requirements established for the position.

Such rule shall provide: (a) that all permanent employees of the district, classified and certificated, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates; (b) that promotional credits, including seniority credits, if any, shall be equally applicable to both classified and certificated promotional candidates; (c) that eligibility lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any; and (d) that the examination for any such position shall not be construed to be an entrance level position examination.

88100. The commission may by rule provide for the competition of persons employed by the governing board in positions required to have certification qualifications in promotional examinations for positions in the classified service.

88101. The commission shall, by rule, provide for an open competitive examination and a promotional examination to be held at the same time for the positions that existed or could be created, when such positions become available for competitive examination, under the provisions of subdivisions (m), (n), and (o) of former Section 13055 as those subdivisions existed prior to their repeal by

action of the 1965 General Session of the Legislature.

Such rule shall provide: (a) that all permanent employees of the district, classified and certificated, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates; (b) that promotional credits, including seniority credits, if any, shall be equally applicable to both classified and certificated promotional candidates; (c) that eligibility lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any; and (d) that the examination for any such position shall not be construed to be an entrance level position examination.

88102. In any community college district which has geographical boundaries encompassing more than 200 square miles and which divides the area it serves into smaller areas for assignment of classified personnel, when an eligibility list is exhausted in one assignment area but there are available eligibles in another assignment area, an area eligibility list may be established for the assignment area in which the eligibility list is exhausted. The life of such new area eligibility list shall be one year. Seniority for the purpose specified in Section 88127 shall continue to be districtwide.

88103. When an open competitive examination and a promotional examination for a particular class are held at the same time, the commission may, prior to the examination, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted if (1) the candidate on the open list has a higher score before adjustment for preferential credits than the score of the highest available candidate on the promotional list after seniority credits have been added, and also if (2) either the class has fewer than three positions in the class or the most recent promotional examination for the class has failed to provide an adequate number of available eligibles on a promotional list to fill all regular vacancies which developed during the first year of the life of the eligibility list.

88104. When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for three or more years may be reclassified with their positions by the personnel commission. When a portion of the positions within a class are reclassified to a higher class an incumbent who has a continuous employment record of three or more years in one or more of the positions being reclassified may be reclassified with his position as provided by personnel commission rule.

The basis for reclassification of the position must be a gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determinations as to gradual accretion will be on the basis of guidelines provided by personnel commission rules.

An employee who has been reclassified with his position shall be ineligible for subsequent reclassification with his position for a period of at least three years from the initial action.

88105. Whenever the appointing power shall require the appointment of a person to a position, the duration of which is not to exceed six months, or, in case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of said employee, he shall submit a request in which the probable duration of the appointment is stated. Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as limited-term employees. Limited-term employees shall be subject to such conditions affecting status and tenure during and after such employment as the commission may by rule determine.

88106. When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days. A 90-calendar-day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity. No person shall be employed in provisional capacities under a given governing board for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position, as defined in Section 88076, successive 90 working days provisional appointments may be made to the part-time position for a total of more than 126 working days in any one fiscal year.

88107. The personnel commission may authorize the extension of a provisional employee's assignment for a period not to exceed 36 working days provided the following requirements are met:

(a) An examination for the class was completed during the first 90 working days of his provisional assignment.

(b) Evidence satisfactory to the personnel commission is presented indicating:

(1) That an adequate recruitment effort has been and is being made.

(2) That extension of the provisional assignment is necessary to carry on vital functions of the district.

(3) That the position cannot be satisfactorily filled by use of other employment lists or procedures.

88108. Successive provisional appointments of 90 working days or less each may be made in any class in the absence of an appropriate eligibility list; provided, that continuous examination procedures for the class have been authorized by the commission. Such successive provisional appointments may be made and persons employed in temporary capacities under a given governing board for a total of more than six months in any one year. Such appointments may continue for the length of time for which they were made, but may not be extended if a certification can be made from an appropriate

eligibility list. While this section is in effect, it shall supersede any other provisions of this article which are in conflict with this section, but only to the extent there is a conflict.

(Repealed and added by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

88108. "Beneficiary" means any person receiving a survivor's allowance, death benefit, retirement allowance under option, or any other benefit. "Beneficiary" does not include a member, former member or retirant unless specifically named as a beneficiary or by operation of law. A corporation, trust, eleemosynary or parochial institution or public entity may only be designated as a beneficiary to receive death benefits under Sections 14070-23100, 14180-23800, 14185-23803, and 14186.3-23807, except as otherwise provided in this chapter

88109. The appointing power may, to prevent the stoppage of public business when an actual emergency arises and persons on eligibility lists are not immediately available, make appointments for a period not to exceed 15 working days, in accordance with commission rule.

88110. Combinations of successive eligibility lists may be made during their first year. Eligibles on lists established within the first year of the life of another list may be placed in the order of their relative excellence in the examination on the like list, if lists so merged have been promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

88111. The commission may by rule provide for the continuous examination of eligibles for classes of positions which the commission determines cannot be practicably filled by promotional examination only.

88112. No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, sex, or marital status shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor.

88113. "Veteran" as used in this article means any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable, proof of which shall be submitted to the commission at the time of the examination.

"Armed forces" means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.

88114. "Disabled veteran" as used in this article means any veteran, as defined in Section 88113, who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the armed forces. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

88115. In the case of all entrance examinations, veterans with 30 days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be

allowed an additional credit of five points and disabled veterans shall be allowed an additional credit of 10 points, which shall be added to the percentages attained in the examinations by the veterans. Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after the credit of five points, or 10 points in the case of disabled veterans, is added.

88116. Whenever during the absence of an employee of a community college district or student body association operating under Sections 76060 to 76065, inclusive, in the active military service of the United States of America during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, the position held by such employee at the time of his entrance into such military service is placed within the classified service of the district and an eligible list is established for such position through competitive examination, the employee shall, at his request made within six months after his leaving such active military service under honorable conditions, be given forthwith an examination of substantially the same character and scope as the competitive examination through which the original eligibility list was established. The grade secured by such employee in such examination shall be deemed to be the grade he would have secured had he taken the competitive examination as a veteran and he shall be placed on the original eligibility list accordingly with all the rights and privileges to which he would have been entitled had he had such place on the original eligibility list at the time of its establishment.

88117. Persons laid off because of lack of work or lack of funds are eligible to reemployment for a period of 39 months and shall be reemployed in preference to new applicants. In addition, such persons laid off have the right to participate in promotional examinations within the district during the period of 39 months.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to 24 months; provided, that the same tests of fitness under which they qualified for appointment to the class shall still apply. The personnel commission shall make the determination of the specific period of eligibility for reemployment on a class-by-class basis.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time, but if there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority.

88118. Any classified employee who, after June 1, 1969, and prior

to March 7, 1973, took a voluntary demotion or voluntary reduction in assigned time in lieu of layoff, and who continues to be in such status on September 23, 1974, shall, on and after September 23, 1974, be accorded the rights and benefits of the amendments to former Section 13737 made by Chapter 1034 of the Statutes of 1972; provided, however, that no appointment to a position made from a valid employment or promotional list subsequent to March 7, 1973, and prior to August 15, 1974, shall be nullified or otherwise affected by this section.

88119. Eligibility lists shall be established for a period of not less than one year except that when a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before a year has expired. A list may be extended for an additional period of one year or less in the discretion of the commission.

88120. A person who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission shall be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. No employee shall attain permanent status in the classified service until he has completed a probationary period in a class. In any case the rules of the commission may provide for the exclusion of time while employees are on a leave of absence. The rights of appeal from disciplinary action prior to attainment of permanent status in the classified service shall be in accordance with the provisions of Section 88124.

88121. No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service. This section shall not be construed to prevent layoffs for lack of work or lack of funds.

88122. In addition to any causes for suspension or dismissal which are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

(a) Knowing membership by the employee in the Communist Party.

(b) Violation of any provision in Sections 7002 to 7006, inclusive, of this code.

(c) Conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

88123. For reasonable causes an employee may be suspended without pay for not more than 30 days except as provided in this section or may be demoted or dismissed. In such case the personnel director shall within 10 days of the suspension, demotion, or dismissal

file written charges with the commission and give to the employee or deposit in the United States registered mail with postage prepaid, addressed to the employee at his last known place of address, a copy of the charges.

Whenever an employee of a community college district is charged with the commission of any sex offense as defined in Section 87010 or any narcotics offense as defined in Section 87011, or a violation of subdivision 1 of Section 261 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to, any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code by complaint, information or indictment filed in a court of competent jurisdiction, the governing board of the district may immediately suspend the employee for a period of time extending for not more than 10 days after the date of the entry of the court judgment; provided, that the suspension may be extended beyond such 10-day period in case the governing board gives notice within such 10-day period that it will dismiss the employee 30 days after the service of the notice, unless he demands a hearing. An employee so suspended shall continue to be paid his regular salary during the period of the suspension if and during such time as he furnishes to the district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the district the amount of salary so paid to him during the period of the suspension in case the employee is convicted of such charges, or he does not return to service after such period of suspension. If the judgment determines that the employee is not guilty of such charges, or if the complaint, information or indictment is dismissed, the district shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the district shall pay to the employee his full compensation during the period of the suspension; provided, he returns to service after such period of suspension.

88124. Any employee in the permanent classified service who has been suspended, demoted, or dismissed may appeal to the commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges. Such an appeal is not available to an employee who is not in the permanent classified service except as provided by rules of the commission. An employee in the permanent classified service who has not served the time designated by the commission as probationary for the class may be demoted to the class from which promoted without recourse to an appeal or hearing by the commission, except as otherwise provided by rules of the commission; and provided, that such demotion does not result in the separation of the employee from the permanent classified service. Nothing in this section shall operate to alter the protections guaranteed under Section 88128.

88125. The commission shall investigate the matter on appeal and

may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the right to appear in person or with counsel and to be heard in his own defense. The decision shall not be subject to review by the governing board.

88126. If the commission sustains the employee, it may order paid all or part of his full compensation from the time of suspension, demotion, or dismissal, and it shall order his reinstatement upon such terms and conditions as it may determine appropriate. The commission may modify the disciplinary action, but may not make the action more stringent than that approved by the board. In addition, the commission may direct such other action as it may find necessary to effect a just settlement of the appeal, including, but not limited to, compensation for all or part of the legitimate expenses incurred in pursuit of the appeal, seniority credit for off-duty time pending reinstatement, transfer or change of location of the employee, and expunction from the employee's personnel record of disciplinary actions, cause, and charges which were not sustained by the commission. Upon receipt of the commission's written decision the board shall forthwith comply with the provisions thereof. When the board has fully complied with the commission's decision it shall so notify the commission in writing.

88127. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 88027.

Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on military leave of absence, or unpaid illness leave, or unpaid industrial accident leave.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

88128. Any permanent classified employee of a community college district who voluntarily resigns from his permanent classified position may be reinstated or reemployed by the governing board of the district, within 39 months after his last day of paid service and without further competitive examination, to a position in his former classification as a permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class or a lower class in which the employee formerly had permanent status.

If the governing board elects to reinstate or reemploy a person as a permanent employee under the provisions of this section, it shall disregard the break in service of the employee and classify him as, and restore to him all of the rights, benefits and burdens of a permanent employee in the class to which he is reinstated or reemployed.

88129. No warrant shall be drawn by or on behalf of the governing board of any district for the payment of any salary or wage to any employee in the classified service unless the assignment bears the certification of the personnel director that the person named in the assignment has been employed and assigned pursuant to this article and the rules of the commission.

Whenever the commission, after a public hearing, finds that any appointment has been made in violation of this article or the rules of the commission as they apply to examination procedures, the commission may order that no salary warrant shall thereafter be drawn to the employee so appointed, for services rendered after the date of said order. Any violation of this article or the rules of the commission as they apply to examination procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

88130. The commission may conduct hearings, subpoena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with. Hearings may be held by the commission on any subject to which its authority may extend as described in this article.

88131. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

88132. The counsel of the governing board shall aid and represent

the commission in all legal matters, and if he refuses, the commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the district.

88133. No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations. No person in the classified service shall engage in political activities during his assigned hours of employment.

88134. No member of the governing board in any district in which the procedure has been adopted shall directly or indirectly solicit or be concerned in soliciting any assessment, contribution, or political service of any kind whatsoever for any political purpose from any person who is in the classified service or who is upon any eligibility list.

88135. No officer or employee of any governing board of any district in which the procedure has been adopted shall directly or indirectly coerce or attempt to coerce or in any way bring pressure or attempt to bring pressure upon any other such officer or employee, to support or refrain from supporting any political group for any political purpose whatever.

88136. Any person who willfully or through culpable negligence violates any of the provisions of this article is guilty of a misdemeanor. It is also unlawful for any person:

(a) Willfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his right of examination, application, or employment under this article or commission rule.

(b) Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or commission rule, or to aid in so doing, or make any false representation concerning the same or the person examined.

(c) Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this article or commission rule.

88137. In every community college district coterminous with the boundaries of a city and county, employees not employed in positions requiring certification qualifications shall be employed, if the city and county has a charter providing for a merit system of employment, pursuant to the provisions of such charter providing for such system and shall, in all respects, be subject to, and have all rights granted by, such provisions; provided, however, that the governing board of the district shall have the right to fix the duties of all of its noncertificated employees.

88138. If the governing board of a community college district receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the governing board calling for the termination of the

merit (civil service) system and the system has been in operation for not less than five years, the governing board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

“Shall the merit (civil service) system for school employees not requiring certification qualifications, as provided for in Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3 of the Education Code of the State of California, and which has been in operation for at least five years, be terminated by the \_\_\_\_\_ School District of \_\_\_\_\_ County (or counties, where appropriate) on \_\_\_\_\_ (date to be specified by governing board)?”

The petition calling for the election, to be valid, must contain the statement of purpose for the election as contained in this section.

88139. If the majority of the qualified electors vote to terminate the merit system in a community college district, the personnel commission shall cease to function on the date specified in the election and the law pertaining to merit system districts shall cease to have any force or effect in that district.

Simultaneously, with the termination of the merit system, the governing board shall adopt rules and regulations relating to classified school employees as required by Section 88013.

Notwithstanding an action to terminate the merit system in a school district, the provisions of Section 88051 shall be applicable at any time after at least two years have elapsed after the system has ceased to operate.

#### Article 4. Salaries

88160. The governing board of any community college district, including city boards of education, shall fix and order paid the compensation of persons a part of the classified service and other employees not requiring certification qualifications employed by the board unless otherwise prescribed by law.

88161. In any community college district with an average daily attendance of more than 400,000 which includes within its boundaries a chartered city, the charter of which requires the fixing of wages and salaries at levels at least equal to the prevailing salary or wage for the same quality of service rendered to private employers under similar employment when such prevailing salary or wage can be ascertained, the governing board of the district, in fixing the compensation of classified employees, shall fix salaries or wages by use of the same standard.

88162. (a) The governing board of any community college district shall, not later than the date prescribed by law for approval

of the publication budget of every year, fix the annual salaries for the ensuing school year for all persons employed by the district in positions not requiring certification qualifications. The governing board may, at the time, include an increase in such annual salaries, all or part of which increase is conditional upon the actual receipt by the district of anticipated revenue from all sources. If the revenue actually received is less than that anticipated, the governing board may, at any time during the school year, reduce such annual salaries by an amount not to exceed the amount which was granted subject to the receipt of such revenues.

(b) The governing board of a community college district may, at any time during the school year, increase the salaries of persons employed by the district in positions not requiring certification qualifications for the remainder of the school year.

(c) A governing board may, at any time, increase the wages or salaries of classified employees if the board or, in a merit system district, the personnel commission approves a classification change in a position, a class of positions, or any or all of the positions or classes of positions a part of the classified service.

(d) The provisions of this section shall not be construed to permit a governing board to demote or dismiss an employee as a result of reclassification of a position or class of positions except as may otherwise be permitted by law.

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88163. If the governing board of a community college district cannot comply with the provisions of subdivision (a) of Section 88162 because it is engaged in a study, which was commenced prior to the commencement of the school year, to increase the salaries and wages of persons employed by such district in positions not requiring certification qualifications, the board may, by appropriate action taken prior to the final adoption of its budget, do either of the following:

(a) Adopt an interim salary schedule which shall be the same schedule as for the preceding year, except that increases may be granted at that time based upon increased cost-of-living indexes, and provide that the salaries and wages fixed as a result of the study shall be payable for the entire school year to include the period thereof in which the study was conducted and final board action taken.

(b) Provide that the salaries and wages fixed as a result of the study shall be effective only for that portion of the school year, as determined by the board at the time it takes action after the study has been completed. "Portion of the school year," as used in this subdivision shall not be for any period of time less than the period of time remaining in the school year from the date the governing board adopts the salary schedule based on the study commenced prior to that school year.

88164. The governing board of any community college district

not paying the annual or monthly salaries of persons employed by the district in 12 equal monthly payments may withhold, upon election by the individual employee, from each payment made to such employee an amount as follows:

(a) For an employee employed 11 months of a year an amount equal to  $8\frac{1}{3}$  percent thereof and the total amount deducted to be paid not later than the 10th day of September next succeeding.

(b) For an employee employed 10 months of a year an amount equal to  $16\frac{2}{3}$  percent thereof and the total amount deducted to be paid in two equal monthly installments not later than the 10th day of August and the 10th day of September next succeeding.

(c) For an employee employed nine months a year an amount equal to 25 percent thereof and the total amount deducted to be paid in three equal monthly installments not later than the 10th day of July, the 10th day of August and the 10th day of September next succeeding.

If the provisions of Section 85244 are made applicable to any district the provisions of this section shall apply except that the amount deducted from each regular pay period and ultimate dates for payment of the amount deducted shall be computed and set in accordance with the system adopted under Section 85244.

Once an employee has elected to be brought under the provisions of this section such election shall not be revocable until the commencement of the next ensuing fiscal year. However, in the event any employee leaves the service of the district by death or otherwise before receiving such moneys as may be due him, the amount due him shall be paid within 30 days of the last working day to him or any other person entitled thereto by law.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88165. Orders for the payment of wages and payroll orders and warrants for the payment of wages of employees a part of the classified service in any public school system shall be drawn at least once during each calendar month, for those districts not using the provisions of Sections 85244 or 85260. Such payment shall be made on the last working day of the month in which the employee was in paid status.

This section shall not prohibit a school district from making a payment of earned salary prior to the last working day of the pay period or of the month.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88166. Whenever it is determined that an error has been made in the calculation or reporting in any classified employee payroll or in the payment of any classified employee's salary, the appointing authority shall, within five workdays following such determination, provide the employee with a statement of the correction and a

supplemental payment drawn against any available funds.

88167. The governing board of each community college district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the payment of dues in, or for any other service provided by, any bona fide organization, of which he is a member, whose membership consists, in whole or in part, of employees of such district, and which has as one of its objectives improvements in the terms or conditions of employment for the advancement of the welfare of such employees.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is an increase in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such increase at a time sufficiently prior to the effective date of the increase to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the increase at a time sufficiently prior to the effective date of the increase to allow the employer an opportunity to make the necessary changes and with a copy of the notification of the increase which has been sent to all concerned employees.

Upon receipt of a properly signed authorization for payroll deductions by a classified employee pursuant to this section, the governing board shall reduce such employee's pay warrant by the designated amount in the next pay period following the closing date for receipt of changes in pay warrants.

The governing board shall, on the same designated date of each month, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the respective deductions made with respect to such organization during the pay period.

The governing board shall not require the completion of a new deduction authorization when a dues increase has been effected or at any other time without the express approval of the concerned employee organization.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88168. Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished two copies of his class specification, salary data, assignment or work location, together with duty hours and the prescribed workweek. The salary data shall include the annual, monthly or pay period, daily, hourly, overtime and differential rate of compensation, whichever are applicable. One copy shall be retained by the employee and the other copy shall be signed and dated by the employee and returned

to his supervisor.

The provisions of this section shall not apply to short-term, limited-term, or provisional employees, as those terms are defined in this chapter.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

#### Article 5. Differential Compensation

88180. For purposes of this article, the following definitions shall apply unless the context indicates otherwise:

(a) "Differential compensation" means either a reduction in the number of hours required to be actually worked or an increase in salary.

(b) "Shift" means the number of hours worked and shall include a duty-free meal period of not less than one-half hour which, in the case of a seven- or eight-hour shift, shall occur approximately at the midpoint of the shift. This subdivision shall not apply to employees working six hours or less, or assigned to a split shift.

88181. The governing board of every community college district, or the personnel commission in any merit system district, shall, insofar as it is possible to do so, determine the practices relating to morning- and night-shift salary differentials in the private employment fields in which it must compete for employees for its classified staff and shall consider the advisability of providing comparable salary differentials for its classified staff.

88182. The governing board of any community college district may provide differential compensation to those classified employees who perform duties of a distasteful, dangerous, or unique nature when, in the opinion of the board, such compensation is reasonably justified.

In a merit system district, such differentials shall be based upon findings and recommendations of the personnel commission and shall not be applied in a manner contrary to the principle of like pay for like service.

88183. Assignment to duties for which differential compensation is designated, other than a temporary assignment of less than 20 working days, shall be made on the basis of seniority among those employees within the appropriate class who request such an assignment.

88184. No employee assigned to work a shift entitled to differential compensation shall be demoted in class or grade as a result of such an assignment.

88185. An employee receiving differential compensation on the basis of his shift shall not lose such compensation if he is temporarily, for 20 working days or less, assigned to a shift not entitled to such compensation. The regular rate of pay for all purposes of an employee assigned to a shift which provides differential

compensation shall be the differential rate.

88186. This article shall apply to community college districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

#### Article 6. Resignations and Leaves of Absence

88190. Governing boards of community college districts may grant leaves of absence and vacations, with or without pay, to persons employed in the classified service of the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88191. Every classified employee employed five days a week by a community college district shall be entitled to 12 days leave of absence for illness or injury and such additional days, in addition thereto, as the governing board may allow for illness or injury, exclusive of all days he is not required to render service to the district, with full pay for a fiscal year of service.

A classified employee, employed five days a week, who is employed for less than a full fiscal year is entitled to that proportion of 12 days leave of absence for illness or injury as the number of months he is employed bears to 12 and the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

A classified employee employed less than five days per week shall be entitled, for a fiscal year of service, to that proportion of 12 days leave of absence for illness or injury as the number of days he is employed per week bears to five and is entitled to the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

When such persons are employed for less than a full fiscal year of service this and the preceding paragraph shall determine that proportion of leave of absence for illness or injury to which they are entitled.

Pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking such leave by the employee and such leave of absence may be taken at any time during the year. However, a new employee of a district shall not be eligible to take more than six days, or the proportionate amount to which he may be entitled under this section, until the first day of the calendar month after completion of six months of active service with the district.

If such employee does not take the full amount of leave allowed in any year under this section the amount not taken shall be

accumulated from year to year with such additional days as the governing board may allow.

The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purpose of this section. Such rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized religious sect, denomination or organization.

The provisions of this section shall not apply to a district or districts, governed by the same governing board, in which the combined average daily attendance of all districts is in excess of 400,000, provided such districts maintain sick leave policies not less than those in effect in such districts on January 1, 1961.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88192. Governing boards of community college districts shall provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of any district which is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1975, shall provide by rules and regulations for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes as provided in Section 4064.

Such rules and regulations shall include the following provisions:

(a) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.

(b) Allowable leave shall not be accumulative from year to year.

(c) Industrial accident or illness leave of absence will commence on the first day of absence.

(d) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.

(e) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

(f) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.

The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 88191. When entitlement to industrial accident or illness leave has been exhausted, entitlement to other sick leave will then be used; but if an employee is receiving workers' compensation the person shall be entitled to use only so much of the person's accumulated or available sick leave, accumulated compensating time, vacation or other available leave

which, when added to the workers' compensation award, provide for a full day's wage or salary.

The governing board may, by rule or regulation, provide for such additional leave of absence, paid or unpaid, as it deems appropriate and during such leave the employee may return to the person's position without suffering any loss of status or benefits.

Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

During all paid leaves of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off or other available leave provided by law or the action of a governing board, the employee shall endorse to the district wage loss benefit checks received under the workers' compensation laws of this state. The district, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.

When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of the person's position, the person shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the person shall be employed in a vacant position in the class of the person's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the person shall be listed in accordance with appropriate seniority regulations.

The governing board may require that an employee serve or have served continuously a specified period of time with the district before the benefits provided by this section are made available to the person provided that such period shall not exceed three years and that all service of an employee prior to the effective date of this section shall be credited in determining compliance with the requirement.

Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board, pursuant to this section, an employee shall be entitled to industrial and accident or illness leave as provided in this section but without limitation as to the number of days of such leave and without any requirement of a specified period of service.

An employee who has been placed on a reemployment list, as provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article

3 (commencing with Section 88060) of this chapter.

88193. The governing board of any community college district may provide for such leave of absence from duty as it deems appropriate for any female employee in the classified service of the district who is required to absent herself from her duties because of pregnancy or convalescence following childbirth, and may adopt rules and regulations prescribing the manner of proof of pregnancy, the time during pregnancy at which the leave of absence shall be taken, and the length of time for which the leave of absence shall continue after birth of the child. The board may also provide in the rules and regulations whether leave granted under this section shall be with or without pay and, if with pay, the amount, if any, to be deducted from the salary due the employee for the period in which the absence occurs. However, nothing in this section shall be construed so as to deprive any employee of sick leave rights under other sections of this code for absences due to illness or injury resulting from pregnancy.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88194. Every person employed in the classified service of any community college district shall be granted necessary leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this code or provided by the governing board of the district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88195. A permanent employee of the classified service who has exhausted all entitlement to sick leave, vacation, compensatory overtime, or other available paid leave and who is absent because of nonindustrial accident or illness may be granted additional leave, paid or unpaid, not to exceed six months. The board may renew the leave of absence, paid or unpaid, for two additional six-month periods or such lesser leave periods that it may provide but not to exceed a total of 18 months.

An employee, upon ability to resume the duties of a position within the class to which he was assigned, may do so at any time during the leaves of absence granted under this section and time lost shall not

be considered a break in service. He shall be restored to a position within the class to which he was assigned and, if at all possible, to his position with all the rights, benefits and burdens of a permanent employee.

If at the conclusion of all leaves of absence, paid or unpaid, the employee is still unable to assume the duties of his position, he shall be placed on a reemployment list for a period of 39 months.

At any time, during the prescribed 39 months, the employee is able to assume the duties of his position he shall be reemployed in the first vacancy in the classification of his previous assignment. His reemployment will take preference over all other applicants except for those laid off for lack of work or funds under Section 88117 in which case he shall be ranked according to his proper seniority. Upon resumption of his duties, the break in service will be disregarded and he shall be fully restored as a permanent employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88196. When a person employed in the classified service is absent from his duties on account of illness or accident for a period of five months or less, whether or not the absence arises out of or in the course of employment of the employee, the amount deducted from the salary due him for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill his position during his absence.

Excepting in a district the governing board of which has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any month shall be less than the salary due the employee absent from his duties.

Entitlement to sick leave provisions under this section, if any, shall be considered "entitlement to other sick leave" for the purposes of computing benefits under the provisions of Section 88192 if the absence is for industrial accident or illness and shall be used after entitlement to all regular sick leave, accumulated compensating time, vacation or other available paid leave has been exhausted.

The foregoing provisions shall not apply to any community college district which adopts and maintains in effect a rule which provides that a regular classified employee shall once a year be credited with a total of not less than 100 working days of paid sick leave, including days to which he is entitled under Section 88191. Such days of paid sick leave in addition to those required by Section 88191 shall be compensated at not less than 50 percent of the employee's regular salary. The paid sick leave authorized under such a rule shall be exclusive of any other paid leave, holidays, vacation, or compensating time to which the employee may be entitled. Nothing in this section shall preclude the governing board from adopting such a rule.

88197. (a) Every community college district shall grant to regular classified employees an annual vacation at the regular rate of pay earned at the time the vacation is commenced. Such vacation

shall be as determined by the community college district, but not less than five-sixths of a day for each month in which the employee is in a paid status for more than one-half the working days in the month, provided the employee is regularly employed five days per week, seven to eight hours a day. An employee in a paid status for less than one-half the working days in a month shall have his vacation credit accrued on the basis provided for in subdivision (b) or (c).

(b) In lieu of accrual of vacation credit on a monthly basis and proration as prescribed in subdivision (a), a district may provide for accrual of vacation credit on any of the following bases:

(1) For all employees or classes of employees who work a full workweek of 40 hours the district shall provide 0.03846 hour of vacation credit for each hour of paid service, not including overtime.

(2) For all employees or classes of employees who work a full workweek of 37.5 hours the district shall provide 0.04087 hour of vacation credit for each hour of paid service, not including overtime.

(3) For all employees or classes of employees who work a full workweek of 35 hours the district shall provide 0.04379 hour of vacation credit for each hour of paid service, not including overtime.

(c) For all employees regularly employed for fewer than 35 hours a week, regardless of the number of hours or days worked per week, the vacation credit shall be computed at the rate of 0.03846 for each hour the employee is in paid status, not including overtime.

(d) Vacation may, with the approval of the employer, be taken at any time during the school year. If the employee is not permitted to take his full annual vacation, the amount not taken shall accumulate for use in the next year or be paid for in cash at the option of the governing board.

(e) Earned vacation shall not become a vested right until completion of the initial six months of employment.

(f) The employee may be granted vacation during the school year even though not earned at the time the vacation is taken.

(g) If an employee is terminated and had been granted vacation which was not yet earned at the time of termination of his services, the employer shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken.

(h) Upon separation from service, the employee shall be entitled to lump-sum compensation for all earned and unused vacation, except that employees who have not completed six months of employment in regular status shall not be entitled to such compensation.

(i) This section shall not apply to substitute, short-term, or limited-term employees, as they are defined in Sections 88003 and 88105, unless such employees are specifically included by the public school employer.

(j) The public school employer may expand the benefits provided for in this section.

(k) This section shall apply to districts that have adopted the

merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88198. When any provision of this code expressly authorizes or requires the governing board of a community college district to grant a leave of absence for any purpose or for any period of time to persons employed in positions not requiring certification qualifications, that express authorization or requirement does not deprive the governing board of the power to grant leaves of absence with or without pay to such employees for other purposes or for other periods of time, so long as the governing board does not deprive any employee of any leave of absence to which he is entitled by law.

88199. Governing boards of community college districts may grant leaves of absence to persons employed in positions not requiring certification qualifications, and at their discretion may pay compensation at such rate as the board prescribes, during the absence, to any such employee whose absence is caused by accident or illness, whether or not the absence arises out of or in the course of the employment of the employee, or because of quarantine which results from his contact with other persons having a contagious disease while performing his duties.

88200. Governing boards of community college districts may allow permanent classified employees to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88201. The governing boards of any community college district may accept the resignation of any employee and may fix the time when the resignation shall take effect, which shall not be later than the close of the school year during which the resignation is received by the board.

88202. Any classified employee of a community college district or county superintendent of schools who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with another district or county superintendent of schools within one year of such termination of his former employment, shall have transferred with him to the second district or county superintendent of schools the total amount of earned leave of absence for illness or injury to which he is entitled under Section 88191. This transfer shall be in the same manner as is provided for certificated employees.

In any case where an employee was terminated as a result of action initiated by the employer for cause, such a transfer may be made if agreed to by the governing board of the district or the county superintendent of schools newly employing the employee.

All or any part of the previous service, not separated by a break in service greater than one year as of the last day of paid service, may, if agreed to by the employing entity, be construed to have been served in the new district or county superintendent of schools of employment for seniority purposes, except that such previous service may not be counted, for seniority purposes, when position or personnel reduction is ordered, for any reason, by the board.

No governing board shall adopt any policy or rule, written or unwritten, which requires all classified employees, or any individual classification, or group of classifications of employees transferring to its district to waive any part or all benefits which they may be entitled to have transferred in accordance with this section.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88203. All employees a part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," September 9 known as "Admission Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (b) and (c) of Section 79020 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 or 79022 for classified or certificated employees. School recesses during the Christmas and Easter periods shall not be considered holidays for classified employees who are normally required to work during that period; provided, however, that this shall not be construed as affecting vacation rights specified in Section 88203.

Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of said holidays, he shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half his regular rate of pay.

The provisions of Article 3 (commencing with Section 79020) of Chapter 8 of Part 48 of this division shall not be construed to in any

way limit the provisions of this section, nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the certificated and the classified services, or from providing holiday pay for employees who have not been in paid status on the days specified herein. Notwithstanding the adoption of separate work schedules for the certificated and the classified services, on any schoolday during which students would otherwise have been in attendance but are not and for which certificated personnel receive regular pay, classified personnel shall also receive regular pay whether or not they are required to report for duty that day.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88204. Notwithstanding the provisions of Section 88203, if a community college district establishes a position or class of positions for which employees are required to work exclusively on weekends and holidays, and for which a special salary rate is established that recognizes the exclusive weekend and holiday peculiarity, the employees and positions may be exempted, by the personnel commission, where applicable, or the governing board from the benefits of Section 88203. No governing board may create a position or a class of positions, under this section, to avoid payment of overtime.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88205. Prior to July 1 of any school year, the governing board of any community college district may designate other days during such year as the holidays to which classified employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," September 9 known as "Admission Day," or November 11 known as "Veterans Day" as specified in Section 88203, provided that such designated days will provide for at least a three-day weekend. Classified employees shall be required to work on the regular holiday for which another day is designated pursuant to this section, and for work of eight hours or less, shall be paid compensation at their regular rate of pay.

If any classified employee would be entitled to the regular paid holiday but would not be in a paid status during any portion of the working day immediately preceding or succeeding the day so designated in lieu of such holiday and therefore would not be entitled to such day in lieu of the holiday, he shall be entitled to the regular holiday; however, if he is required to work on such holiday, he shall be paid compensation at the rate of time and one-half of his regular rate of pay in addition to the regular pay received for the holiday.

This section shall not be construed to authorize the maintenance

of schools on holidays other than as provided in Article 3 (commencing with Section 79020) of Chapter 8 of Part 48 of this division.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88206. Any community college district which requires any classified employee to work a workweek other than Monday through Friday, or if such classified employee consents to a workweek including Saturday or Sunday or both, pursuant to Section 87015, and as a result thereof the employee loses a holiday to which he or she would otherwise be entitled shall provide a substitute holiday for such employee, or provide compensation in the amount to which the employee would have been entitled had the holiday fallen within his or her normal work schedule.

88207. Any days of absence for illness or injury earned pursuant to Section 88191, may be used by the employee, at his election, in cases of personal necessity, including any of the following:

(a) Death of a member of his immediate family when additional leave is required beyond that provided in Section 88194 and that provided, in addition thereto, as a right by the governing board.

(b) Accident, involving his person or property, or the person or property of a member of his immediate family.

(c) Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.

(d) Such other reasons which may be prescribed by the governing board.

The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for the purpose of this section. No earned leave in excess of six days may be used in any school year for the purposes enumerated in this section.

Immediate family has the same meaning as provided in Section 88194.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

This section shall also apply to community college districts that may be exempted from the provisions of Section 88191. Authorized necessity leave shall be deducted from sick leave earned under the provisions of the exemption of Section 88191.

88208. Every regularly employed classified school employee employed by any of the following: (a) governing board of a community college district, or (b) personnel commission of a community college district which has a merit system as provided in Article 3 (commencing with Section 88060) of this chapter, shall be covered for unemployment insurance pursuant to Sections 135.3 and 605.2 of, and Article 6 (commencing with Section 821) of Chapter 3

of Part 1 of Division 1 of, the Unemployment Insurance Code.

As used in this section, "regularly employed classified school employee" includes all persons employed pursuant to Sections 1311, 72405, 72424, 88004, 88005, 88076 and 88247 and any other similar provisions heretofore or hereafter enacted. Persons serving as substitute, short-term, part-time playground, full-time day student employed part-time where enrolled, apprentice, temporary professional expert, emergency, limited term, or provisional employees or volunteers are, unless otherwise eligible, excluded from the meaning of the term.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88209. The Director of Benefit Payments is the administrator of the system of unemployment insurance, as provided in Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

#### Article 7. Retraining and Study

88220. In enacting this article the Legislature recognizes that technological and other changes are occurring which may displace otherwise desirable classified employees in the public school systems of the state. The Legislature intends that the enactment of this article will encourage classified employees to prepare themselves for the changes that are occurring and will also encourage governing boards to utilize the article to further study and retraining by classified personnel.

88221. The governing board of any community college district may grant any classified employee a leave of absence not to exceed one year for the purpose of permitting study by the employee or for the purpose of retraining the employee to meet changing conditions within the district.

The governing board may provide that such a leave of absence shall be taken in separate six-month periods or in any other appropriate periods, rather than for a continuous one-year period; provided, that the separate periods of leave of absence shall be commenced and completed within a three-year period. Any period of service by the individual intervening between the authorized separate periods shall comprise a part of the service required for a subsequent leave of absence for study or retraining purposes.

In community college districts operating under the merit system, such leaves of absence shall be granted in accordance with rules established by the personnel commission.

88222. No leave of absence shall be granted under this article to any employee for study purposes who has not rendered service to the district for at least seven consecutive years, or for retraining purposes who has not rendered service to the district for at least three consecutive years preceding the granting of the leave, and no more

than one such leave of absence shall be granted in each seven- or three-year period, respectively. The governing board, or personnel commission in merit system districts, may prescribe standards of service which shall entitle the employee to the leave of absence.

Any leave of absence granted under this article shall not be deemed a break in service for any purpose, except that such leave shall not be included as service in computing service for the granting of any subsequent leave under this article.

88223. Every employee granted a leave of absence pursuant to this article may be required to perform such services during the leave as the governing board of the district and the employee may agree upon in writing. The employee shall receive such compensation during the period of the leave as the governing board and the employee may agree upon in writing, which compensation shall be not less than the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. However, in lieu of such difference, the board may pay one-half of the salary of the employee on leave or any additional amount up to and including the full salary of the employee on leave.

88224. Compensation granted by the governing board to the employee on leave may be paid in two equal annual installments during the first two years of service rendered in the employ of the governing board following the return of the employee from the leave of absence. The compensation shall be paid the employee while on the leave of absence in the same manner as if the employee were working for the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the employee fails to render at least two years' service in the employ of the governing board following the return of the employee from the leave of absence. The bond shall be exonerated in the event the failure of the employee to return and render two years' service is caused by the death or physical or mental disability of the employee. If the governing board finds, and by resolution declares, that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render at least two years' service therein following his return from the leave, the governing board in its discretion may waive the furnishing of the bond and pay the employee on leave in the same manner as though a bond is furnished.

88225. Where one governing board serves as the governing board of two or more separate districts, an employee may fulfill the service requirements provided in Sections 88222 or 88224, or both, by service in any one or more of the districts under the jurisdiction of such governing board.

88226. This article shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter or other applicable provisions of this code that may hereafter be enacted.

88227. The governing board of any community college district may grant reimbursement of the costs, including tuition fees, to any permanent classified employee who satisfactorily completes approved training to improve his job knowledge, ability, or skill. Programs eligible for such reimbursement shall include, but not be limited to, courses of study at approved academic institutions, seminars and training institutes conducted by recognized professional associations, and conferences, meetings and such other training programs as are designed to upgrade the classified service and to encourage retraining of employees who may otherwise be subject to layoff as the result of technological changes. Eligibility for reimbursement shall be in accordance with rules established by the personnel commission in those districts which have adopted a merit system. Provisions of this section shall not apply to any employee who is receiving training and is eligible for reimbursement by any other governmental agency, organization, or association.

#### Article 8. Instructional Aides

88240. This article may be cited as the Instructional Aide Act of 1968. The provisions of this article shall apply to personnel referred to in Section 72401 or 87404 or any other section heretofore or hereafter enacted, who perform the duties of instructional aides.

88241. The Legislature recognizes the need to provide classroom instructors and other certificated personnel with more time to instruct and to provide the means for them to utilize their professional knowledge and skills more effectively in the educational programs of the public schools. It is the intent of the Legislature to authorize the employment of instructional aides in order that classroom instructors and other certificated personnel may draw upon the services of such aides to assist them in ways determined to be useful in improving the quality of educational opportunities for students.

88242. Instructional aides shall not be utilized to increase the number of students in relation to the number of classroom teachers in any school, any community college district, or in the state. Notwithstanding the foregoing provisions, class size ratios existing in special education classes prior to November 13, 1968, may be maintained or decreased, but not increased, by use of instructional aides.

All instructional aide positions in a community college district shall be assigned the basic title of "instructional aide" or other appropriate title designated by the governing board. To provide for differences in responsibilities and duties, additions to the basic title may be assigned such as "instructional aide I or II" or "instructional aide—volunteer," or other appropriate title.

88243. As used in this article, "instructional aide" means a person employed to assist classroom instructors and other certificated personnel in the performance of their duties and in the supervision

of students and in instructional tasks which, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom instructor.

88244. (a) Subject to the provisions of this article, any community college district may employ instructional aides to assist classroom instructors and other certificated personnel in the performance of duties as defined in Section 88243. An instructional aide shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom instructor. These duties shall not include assignment of grades to students. An instructional aide need not perform such duties in the physical presence of the instructor but the teacher shall retain his responsibility for the instruction and supervision of the students in his charge.

(b) Educational qualifications for instructional aides shall be prescribed by the community college district employer and shall be appropriate to the responsibilities to be assigned.

88245. Notwithstanding the provisions of Section 66015, no instructional aide shall give out any personal information concerning any student who is not his own child or ward, except under judicial process, to any person other than an instructor or administrator in the school which the student attends. A violation of this section may be a cause for disciplinary action, including dismissal.

88246. Classroom instructors and other certificated personnel shall not be required to hold a standard supervision credential or a standard administration credential as a prerequisite to the supervision and direction of instructional aides.

88247. (a) An instructional aide shall not be deemed a certificated employee for the purposes of apportioning state aid and no regrouping of students with instructional aides shall be construed as a class for apportionment purposes.

(b) Instructional aides shall be classified employees of the district, and shall be subject to all of the rights, benefits, and burdens of the classified service, except as specified in Section 88005 for "restricted" positions.

88248. The community college district shall pay to each person employed as an instructional aide compensation at a rate not less than the minimum hourly rate prescribed by federal law.

88249. Notwithstanding the provisions of this article, or any other provisions of law, a community college district may utilize volunteers in the supervision and instruction of students, but any such volunteer shall be subject to the provisions of Section 72401 and this article.

## DIVISION 8. CALIFORNIA STATE UNIVERSITY AND COLLEGES

## PART 55. CALIFORNIA STATE UNIVERSITY AND COLLEGES

## CHAPTER 1. GENERAL PROVISIONS

## Article 1. General Provisions

89000. As used in this division, "trustees" means the Trustees of the California State University and Colleges, created under Section 66600.

89001. The California State University and Colleges includes the institutions for higher education whose locations are listed in this section.

- (a) San Jose.
- (b) San Francisco.
- (c) Chico.
- (d) Humboldt.
- (e) San Diego.
- (f) Fresno.
- (g) California Polytechnic State University, San Luis Obispo.
- (h) California State Polytechnic University, at or near the Cities of San Dimas and Pomona.
- (i) Long Beach.
- (j) Los Angeles.
- (k) Sacramento.
- (l) Hayward.
- (m) San Fernando Valley.
- (n) Fullerton.
- (o) Stanislaus.
- (p) Sonoma.
- (q) San Bernardino.
- (r) Dominguez Hills.
- (s) Contra Costa.
- (t) Kern.
- (u) Redwood City.
- (v) Ventura.

89002. The campuses authorized in subdivisions (s), (u) and (v) of Section 89001 shall commence construction only upon resolution of the trustees, approved by the California Postsecondary Education Commission.

89003. The trustees shall provide the following services to the California Maritime Academy Board of Governors pursuant to contract providing for compensation, either in direct payment or by means of the exchange of services or use of facilities, to the trustees for such services:

- (a) Legal services.

(b) Legislative representation.

(c) Assistance in curriculum development to the extent requested by the board of governors.

89004. The trustees, or a designated committee thereof, shall be a board of visitors to the Board of Governors of the California Maritime Academy and shall meet with the board of governors to discuss policies and concepts common to the two institutions, and to advise the board of governors.

However, such status as a board of visitors shall in no way affect the exclusive authority of the board of governors to administer the academy, and the California State University and Colleges or the trustees shall not be legally responsible in any way for the acts or omissions of the California Maritime Academy or the board of governors.

89005. All references in any law or regulation to the "California State Colleges," to "state colleges" or to any particular state college shall be deemed to refer, respectively, to the California State University and Colleges, to the institutions of higher education which comprise the California State University and Colleges as authorized in Section 89001, and to the particular institution of higher education as named pursuant to Section 89033. All references to the California State University and Colleges shall include all campuses, branches and functions thereof. The term "campus" shall mean any of the institutions included within the California State University and Colleges specified in Section 89001.

89006. It is unlawful for any person to utilize any information, not a matter of public record, which is received by him by reason of his employment by, or contractual relationship with, the trustees, the California State University and Colleges or an auxiliary organization of the California State University and Colleges as defined in Section 89033, for personal pecuniary gain, not contemplated by the terms of such employment or contract, regardless of whether he is or is not so employed or under contract at the time such gain is realized.

89007. For the purposes of Section 11032 of the Government Code, the following constitute, among other proper purposes of like or different character, state business for officers and employees of the trustees for which the officers and employees shall be allowed actual and necessary traveling expenses:

(a) Attending meetings of any association, organization or agency having as its principal purpose the study of matters relating to education or to a particular field or fields of education, or any agency of such association.

(b) Conferring with officers or employees of this state or the United States, or appearing before committees of either house of the Congress of the United States, relative to problems relating to education in California.

(c) Conferring with officers or employees of other states engaged in the performance of similar duties.

(d) Obtaining information useful to the trustees in the conduct of their work.

The provisions of Section 11032 of the Government Code, requiring approval by the Governor and Director of Finance of traveling and expenses outside the state shall not be applicable to the officers and employees of the trustees.

## Article 2. Powers of the Trustees

89030. The trustees shall adopt rules and regulations not inconsistent with the laws of this state for:

- (a) The government of the trustees
- (b) The government of their appointees and employees
- (c) The government of the California State University and Colleges.

The rules and regulations shall be published for distribution as soon as practicable after adoption.

This section shall be liberally construed in order that the purposes of the Donahoe Higher Education Act pursuant to Part 40 (commencing with Section 66010) of Division 5 of this title, may be effectuated.

89031. The trustees may establish rules and regulations for the government and maintenance of the buildings and grounds of the California State University and Colleges. Every person who violates or attempts to violate the rules and regulations is guilty of a misdemeanor.

89032. Criteria for including the words "state university" in the name of any of the particular institutions designated in Section 89001 shall be jointly developed and approved by the Trustees of the California State University and Colleges and the California Postsecondary Education Commission.

89033. The name of any particular institution named in Section 89001 may be changed to read "California State University, \_\_\_\_\_," or "\_\_\_\_\_ State \_\_\_\_\_" (College or University, as the case may be), except that the institutions named in subdivisions (a), (b), (d), (e), (g), and (h) of Section 89001 shall be changed to read "San Jose State University," "San Francisco State University," "Humboldt State University," "San Diego State University," "California Polytechnic State University, San Luis Obispo," and "California State Polytechnic University, Pomona," respectively; provided that the term "university" may be used in the name of a particular institution only after affirmative action by the trustees and the California Postsecondary Education Commission after consideration of the criteria developed pursuant to Section 89032.

89034. The designation of the California State University and Colleges and the authority vested in the trustees to select and change the name of any institution of higher education in the California State University and Colleges shall not be construed to contravene or conflict with the provisions of Section 66608.

89035. Wherever in this code a power is vested in the trustees, the

trustees by majority vote may adopt a rule delegating such power to any officer, employee, or committee as the trustees may designate. The rule shall prescribe the limits of such delegation.

89036. The trustees may enter into agreements with any public or private agency, officer, person, or institution, corporation, association, or foundation for the performance of acts or for the furnishing of services, facilities, materials, or equipment by or for the trustees or for the joint performance of an act or function or the joint furnishing of services and facilities by the trustees and the other party to the agreement.

The trustees may enter into agreements with the federal government or any agency thereof in accordance with the procedures prescribed by the federal government or such agency in order to receive the benefits of any federal statute extending benefits to the California State University and Colleges or to the California State University and Colleges students, including, but not limited to:

(a) Agreements with any agency of the federal government for the education of persons in the service of the federal government.

(b) Agreements with any agency of the federal government for the education of veterans, provided that such agreements shall provide for payment of the maximum amount permitted under the act, or acts, of Congress under which the agreement is entered into.

Notwithstanding any other provision of law, the trustees have all power necessary to perform such acts and comply with conditions required or imposed by the federal government in order to receive such benefits. The trustees are vested with all necessary power and authority to cooperate with any such agency of the federal government in the administration of any applicable act of Congress and rules and regulations adopted thereunder.

The provisions of Article 1 (commencing with Section 4300) of Chapter 4 of Division 5, Title 1 of the Government Code shall not apply to the purchase by the trustees of musical instruments for the use of students of the California State University and Colleges.

89037. The trustees may establish facilities for training deaf persons at the campus of the California State University and Colleges which the trustees shall designate for such purpose. The trustees shall:

(a) Request the Department of Rehabilitation to refer deaf students to the designated state university or college.

(b) Recognize the designated campus of the California State University and Colleges as a professional center for training deaf persons and take all action necessary to facilitate the receipt by such campus of state and federal funds.

89038. The trustees may enter into agreements with any agency of the federal government for the construction of housing and other educational facilities for students and faculties of any campus of the California State University and Colleges under the jurisdiction of the trustees if they determine that the income, rent and charges for the use of the facilities will be sufficient in amount to repay the principal

and interest on the amount secured from the federal government for the construction of the facilities.

The trustees may also enter into agreements with any agency of the federal government which result in grants, matching funds, or any other kind of financial aid for construction of housing and other educational facilities for students and staff of any campus of the California State University and Colleges under the jurisdiction of the trustees.

Notwithstanding any other provision of law, whenever necessary to secure the full benefits of any federal statutes pertaining to loans, grants, matching funds, or any other kind of financial aid to educational institutions for housing and other educational facilities, the trustees may give such security as may be required and may comply with such conditions as may be imposed by the federal government.

89039. Notwithstanding anything to the contrary in Article 2 (commencing with Section 1940) of Chapter 2 of Part 7 of Division 2 of the Labor Code, the trustees may enter into an agreement with any political entity mentioned in Section 87422 for the exchange and employment of persons serving as teachers in state college laboratory demonstration elementary schools and employees of public schools of the political entity. The exchange and employment shall be made under comparable circumstances, subject to comparable conditions, with comparable effect as to tenure and retirement rights, subject to comparable requirements as to payment of salary and deductions therefrom, and for the same period of time as set forth in Sections 87422, 87423, and 87424 with respect to the exchange of school district employees, except that the circumstances, conditions, rights, and requirements shall be those appropriate to the employment relationship between the teachers and the trustees.

89040. The trustees may insure the owner of any motor vehicle used in driver training and employees of the California State University and Colleges and the students instructed by them against any liability, other than a liability which may be insured against under Division 4 (commencing with Section 3200) of the Labor Code, for injuries or damages resulting from the negligent operation of any motor vehicle while such motor vehicle is operated by the employees or by students in connection with the giving of instruction in the operation of motor vehicles within the curricula of the campus of the California State University and Colleges.

89041. The trustees may give in the name of the State of California such bond as may be required by the federal government, or any officer or agency thereof, for the care, safekeeping, and return of property of the United States issued to the California State University and Colleges for the Reserve Officer Training Corps unit maintained at such campus.

89042. The trustees may issue subpoenas to compel the attendance of witnesses before the trustees, or any member thereof,

in the same manner as any court in this state. Whenever the testimony of any witness upon any matter pending before them is material, the trustees shall cause the attendance of the witnesses before the trustees, or a member of the trustees, to testify concerning the matter, and the trustees may make a reasonable allowance for this purpose not exceeding the fees of witnesses in civil cases. The allowance shall be paid for out of the appropriation for the expenses of the trustees, but in no instance shall an allowance be made in favor of a witness who appears in behalf of a claimant. The provisions of this section shall not apply to proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

89043. The trustees shall have the powers conferred upon heads of departments of the state by Article 2 (commencing with Section 11180), Chapter 2, Part 1, Division 3, Title 2 of the Government Code.

89044. The trustees may budget an amount to be expended in accordance with rules and regulations adopted by the State Board of Control for use in carrying out the community relation responsibilities of the president of each campus of the California State University and Colleges and of the chancellor, as defined by the trustees.

89045. The trustees shall establish an internal audit staff which shall include such staff positions as may be presently authorized for internal auditing. The internal auditing staff shall report directly to the trustees and shall be available for consultation with any audit committee of the trustees which may be established by the trustees.

The duties of the internal audit staff shall include, but shall not be limited to, auditing, reviewing, cost and systems analysis, analyzing, and recommending operating procedures for the California State University and Colleges.

Management audits shall be made to determine the effectiveness and efficiency of the organization, operation, and procedures of each state college, each auxiliary organization, and the office of the chancellor. Officials and employees of each state university or college, each auxiliary organization, and the office of the chancellor shall furnish all books, papers, contracts, management charts, and related information necessary for such management audits.

89046. The trustees, with the approval of the Director of Finance, may lease any property of a state college for any purpose which they determine is not inconsistent with the functions of the California State University and Colleges, including, but not limited to:

(a) The lease of state university or college property to a nonprofit organization composed exclusively of students of the university or college or of members of the faculty of the university or college or both, for purposes related to the activities of the university or college or for the activities of student or faculty organizations;

(b) The lease of state university or college property to any nonprofit organization for the purpose of constructing and using thereon buildings as living quarters for students of the university or

college and as meetingplaces;

(c) The lease to any student or faculty organization of the college of property for the purpose of establishing and maintaining cooperative stores, and cafeterias in connection with such stores.

Any rental received under this section shall be deposited in the State Treasury and credited to the support appropriation of the California State University and Colleges current during the period of occupancy.

89047. The trustees, with the approval of the Director of General Services, and the governing board of any school district within which a campus of the California State University and Colleges is located, may enter into an agreement providing for the leasing by the state of a school building of the school district for use by such campus as a laboratory demonstration elementary school on such terms and conditions as may be agreed upon by the trustees and the governing board of the school district except as otherwise herein provided.

The lease may be for a period of not to exceed 20 years and shall in addition to any other terms and conditions set forth therein (a) require the school district to maintain the building at its own expense, (b) require such campus to maintain a school therein open to pupils of the school district residing in the attendance district for the school as established by the governing board of the district, and (c) require the school district to pay annually to the state on or before the end of each fiscal year an amount determined by computing the current expenditures per pupil in the elementary schools of the district for the fiscal year and multiplying the amount so computed by the average daily attendance for the fiscal year in the school in excess of 400.

Only the average daily attendance in the school in excess of 400 shall be credited to the school district.

The average daily attendance of pupils in the school shall be computed separately in the same manner as the average daily attendance in other schools of the same grade maintained by the school district.

### Article 3. Advisory Boards

89060. For each campus of the California State University and Colleges, except as otherwise provided in this article, there shall be an advisory board of not less than seven nor more than 13 members, who shall be appointed by the trustees. Each member of the advisory board of a campus of the California State University and Colleges shall reside in the area in which such campus is located. No person shall be appointed to serve as a member of an advisory board who at the time holds any salaried educational position, except that any member of a county board of education or of a governing board of a school district may serve on an advisory board; provided that no more than three members of an advisory board may also be members of a county board of education or a governing board of a school district.

89061. The terms of office of the members of each board shall be four years, except as otherwise provided, and they shall hold office until the appointment and qualification of their successors. The terms of the first members of each advisory board shall be fixed by the trustees and in such manner as will provide for the expiration each year of the terms of, as nearly as may be possible, one-fourth of the members.

89062. A vacancy shall be filled by appointment by the trustees. The appointee shall hold office only for the balance of the unexpired term.

89063. The members of each board shall select a chairman from the members of the board. The president of the campus of the California State University and Colleges shall be the executive secretary of the board.

89064. Each board shall consult and advise with the president of the campus of the California State University and Colleges with respect to the improvement and development of such campus.

89065. Each board shall meet at least once each year and shall meet at such other times as the chairman or executive secretary may designate.

89066. The executive secretary of each board shall keep the trustees fully informed with respect to the activities of the board and immediately following each meeting thereof shall forward to the trustees a complete report of the meeting, including all recommendations made by the board.

89067. This article does not apply to the California State Polytechnic University.

#### Article 4. Academic Year Operations

89080. It is the intent of the Legislature, while maintaining the maximum utilization of funds provided for the support of public higher education, to provide increased access to high education for all residents of this state, to permit maximum use of existing facilities and academic resources of the California State University and Colleges campuses, to provide for the orderly growth and expansion of the state's system of higher education, and to allow for effective long-range planning to meet the needs of our institutions of higher education while maintaining the quality of that education.

Thus, it is the intent of the Legislature to establish year-round operations at the California State University and Colleges where practical.

89081. The trustees shall maintain year-round operations at the following campuses: California Polytechnic State University, San Luis Obispo, California State Polytechnic University, Pomona, California State University, Los Angeles, and California State University, Hayward.

89082. Any campus of the California State University and

Colleges, other than those specified in Section 89081, which has a full-time equivalent academic year enrollment of 10,000 or greater shall operate on a year-round basis within two years of the effective date of an appropriation by the Legislature of sufficient planning money to effectuate an orderly transition of campus operations to the year-round basis.

89083. All student fees and charges established for an academic year shall be uniformly allocated over all the terms of operation under this article.

89084. Any campus of the California State University and Colleges which operates on a year-round basis on November 23, 1970, shall continue to operate on such basis.

## CHAPTER 2. EDUCATION PROGRAMS

### Article 1. Noncommercial Television

89200. The trustees, on behalf of any campus of the California State University and Colleges, may enter into contracts for the purpose of participating in or the procuring or transmitting of television broadcasts, may purchase broadcast time over, and may own, lease and operate television transmitting facilities for use in providing educational, noncommercial television broadcasts, and may provide necessary services in connection therewith.

### Article 2. Laboratory Classes for Exceptional Children

89210. It is the intent and purpose of the Legislature in providing for the establishment at or in conjunction with individual state universities or colleges, under this article, of laboratory classes for exceptional children, to accomplish the following general aims:

(a) Improve programs presently offered within the California State University and Colleges system for the training of teachers in the education of exceptional children, and afford prospective teachers with direct experience with typical exceptional children.

(b) Provide facilities and workshops where needed systematic continuing research in the development of methods, means, and techniques in teaching of exceptional children shall be conducted.

(c) Accelerate the recruitment and training of prospective teachers of exceptional children and provide in-service training for credentialed teachers to improve their skills.

(d) Provide a combined and comprehensive university or college level program of research and teacher training to meet the needs of exceptional children such as will serve to attract and effectively utilize available public and private funds and grants.

(e) Provide for increased and improved special educational services for exceptional children through cooperation and coordination with local school districts and county offices.

89211. For purposes of state financial support, the laboratory

classes for exceptional children established at or in conjunction with state universities or colleges under this article shall be separately budgeted for in each budgeting request submitted by the California State University and Colleges, and in the Budget Act.

89212. The trustees are authorized to accept and devote to the financial support of any of the laboratory classes for exceptional children maintained in conjunction with any state university or college, any federal funds and any other public or private funds which may be allotted or granted for such purposes, and shall have the power to take all measures necessary to effect compliance with the terms and conditions under which such an allotment or grant may be made.

### Article 3. Vocational Teachers

89220. There is hereby continued in existence a board of examiners for vocational teachers. The board shall consist of the Commission for Vocational Education, as created and established by the State Board of Education and two other members, selected by the trustees who are presidents of state colleges and who shall hold office at the pleasure of the trustees.

89221. The board shall set up an examination or shall evaluate the qualifications of vocational teachers desirous of qualifying for the baccalaureate degree. The evaluation shall be based upon the education, completion of approved vocational teacher training, occupational experience, supervisory experience, and managerial experience of the candidate. The board is authorized to recommend to state colleges the number of units to be allowed towards a baccalaureate degree, but shall not recommend that a candidate be granted more than 40 units for occupational experience, supervisory experience and managerial experience. The evaluation shall be at the discretion of the board.

89222. On the basis of the examination and an evaluation of the candidate's experience and other qualifications made by the board, it shall recommend the granting of a baccalaureate degree in vocational arts by the California State University and Colleges.

89223. Any candidate for a baccalaureate degree shall be a high school graduate, shall have had not less than seven years actual experience in the trade or occupation in which he desires to qualify, and shall have had a minimum of 1,620 hours teaching experience in an approved vocational class, or 1,000 hours teaching experience in an approved trade extension class.

In lieu of the educational qualifications, the board may evaluate and make recommendations concerning such other qualifications as it deems applicable for persons lacking the formal educational qualifications.

#### Article 4. Instructionally Related Activities

89230. "Instructionally related activities" are those activities and laboratory experiences which are at least partially sponsored by an academic discipline or department and which are, in the judgment of the president of a particular campus, with the approval of the trustees, integrally related to its formal instructional offerings.

Activities which are considered to be essential to a quality educational program and an important instructional experience for any student enrolled in the respective program may be considered instructionally related activities.

Instructionally related activities include, but are not limited to:

(a) Intercollegiate athletics: costs which are necessary for a basic competitive program including equipment and supplies and scheduled travel, not now provided by the state. Athletic grants should not be included.

(b) Radio, television, film: costs related to the provisions of basic "hands-on" experience not now provided by the state. Purchase or rental of films as instructional aids shall not be included.

(c) Music and dance performance: costs to provide experience in individual and group performance, including recitals, before audiences and in settings sufficiently varied to familiarize students with the performance facet of the field.

(d) Drama and musical productions: basic support of theatrical and operatic activities sufficient to permit experience not only in actual performance but production, direction, set design and other elements considered a part of professional training in these fields.

(e) Art exhibits: support for student art shows given in connection with degree programs.

(f) Publications: the costs to support and operate basic publication programs including a periodic newspaper and other laboratory experience basic to journalism and literary training. Additional publications designed primarily to inform or entertain should not be included.

(g) Forensics: activities designed to provide experience in debate, public speaking, and related programs, including travel required for a competitive debate program.

(h) Other activities: activities associated with other instructional areas which are consistent with purposes included in the above may be added as they are identified.

Pursuant to this section and other provisions of this code the Chancellor of the California State University and Colleges shall develop a program of fiscal support, and shall consult with the Student Presidents' Association, the Academic Senate, and the Chancellor's Council of Presidents regarding such program.

The provisions of this section shall not become operative unless funds are appropriated to meet the instructionally related needs of the campuses of the California State University and Colleges.

### Article 5. Athletic Programs

89240. It is the intent of the Legislature that opportunities for participation in athletics be provided on as nearly an equal basis to male and female students as is practicable, and that comparable incentives and encouragements be offered to females to engage in athletics.

It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team athletics as is available to males who participate with other males in individual and team athletics.

89241. Insofar as practicable, from the total amount of funds available for athletics from the General Fund, the trustees shall ensure that reasonable amounts will be allocated to male and female students, except that allowances may be made for differences in the costs of various athletic programs.

89242. The trustees shall report annually to the Legislature on the progress made in providing comparable incentives and encouragements to females to engage in athletics.

89243. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

89243. The president of each campus of the California State University and Colleges shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of his campus of the California State University and Colleges pursuant to Sections 90511 and 90512.

89244. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

89244. All football equipment actually worn by pupils shall be cleaned and sterilized at least once a year. Football equipment used in spring training shall be cleaned and sterilized before it is used in the succeeding fall term.

89245. (Repealed by Stats. 1976, Ch. 1011.)

[ORIGINAL SECTION]

89245. Any contract with a dealer or craftsman for the repair of football equipment belonging to the district or the state college shall specifically state or describe the materials to be used by the dealer or craftsman in repairing such equipment.

## CHAPTER 3. STUDENTS

### Article 1. Student Body Organizations

89300. A student body organization may be established at any state college or university under the supervision of the college or university officials for the purpose of providing essential activities closely related to, but not normally included as a part of, the regular instructional program of the college or university. Such an organization may also operate a campus store, a cafeteria, and other projects not inconsistent with the purposes of the college or university, and property of the college or university may be leased to such an organization for such purposes.

The trustees may fix fees for voluntary membership in such

organization established at a state college or university.

Notwithstanding any provisions of law to the contrary, if a student body organization is established at any state college or university, upon the favorable vote of two-thirds of the students voting in an election held for this purpose, in such manner as the trustees shall prescribe, and open to all regular students enrolled in such college or university, the trustees shall fix a membership fee which shall be required of all regular, limited and special session students attending such college or university. No fees shall be charged to students registering solely in extension classes.

Such required fee shall be subject to referendum at any time upon the presentation of a petition to the president of the college or university containing the signatures of 20 percent of the regularly enrolled students at such college or university. A successful referendum shall take effect with the beginning of the academic year following that in which the election was held.

Payment of membership fees pursuant to this section shall be a prerequisite to enrollment in the college or university, except that if sufficient funds are available any state college or university student may at his option and subject to the regulations of the trustees establishing standards in that regard, agree to work off the amount of the fee at the prevailing rate of the college or university for student assistants. The trustees may adopt regulations setting standards for determining which students shall be eligible to work off the amount of the fee. No student shall be required to pay student body membership fees in an aggregate amount exceeding twenty dollars (\$20) per academic year.

The revenues raised pursuant to this section may, in addition to expenditures for other lawful purposes involved in the operations of the student body organization, be expended to provide for the support of governmental affairs representatives who may be attending upon the State Legislature or upon offices and agencies in the executive branch of the state government.

89301. Notwithstanding any provision of law to the contrary, except as provided pursuant to Section 89707.5 with respect to nonresident students who are citizens and residents of a foreign country and who are not citizens of the United States, student body organization membership fees authorized under the provisions of Section 89300 hereof shall be collected by the officials of the college, together with all tuition and material and service fees, at the time of registration. All unexpended funds and money collected on behalf of or by student body organizations, except funds and money collected from commercial services as provided in Section 89905, shall, with the approval of an appropriate officer of the student body organization, be deposited in trust by the chief fiscal officer of the state college and such money shall, subject to the approval of the trustees, be deposited or invested in any one or more of the following ways:

- (a) Deposits in trust accounts of the centralized State Treasury

system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the State Colleges Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation; and provided further that any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by such insurance.

(c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the State Treasurer in those securities.

(d) Participation in funds which are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.

All moneys received by a state college from any agency of the state or federal government for the payment of student body organizations membership fees of students attending the college shall be deposited or invested as provided above.

89302. All money collected by a campus of the California State University and Colleges on behalf of a student body organization under Sections 89046, 89047, 89300, 89301 and 89750, shall be available for such purposes of the student body organization as are approved by the trustees.

The chief fiscal officer of each campus of the California State University and Colleges shall be custodian of these moneys and provide the necessary accounting records and controls thereof.

These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by officers of the student body organization.

The campus of the California State University and Colleges shall be reimbursed by the student body organization an amount to cover the cost of the custodial and accounting services provided by the campus of the California State University and Colleges in connection with these funds.

Student body funds used for scholarships, grants-in-aid, stipends, loans, and similar expenditures shall conform to the regulations of the trustees, which shall be adopted by February 27, 1970, and shall be approved by the college financial aids office before such funds are expended and shall be reflected on the student's record kept in that office. The student's financial aid record shall include all such funds received by the student.

89303. The trustees may provide for the construction of a building to serve as a student body center to be financed entirely or in part by fees required of students as authorized in Section 89304

pursuant to the provisions of the State College Revenue Bond Act of 1947.

89304. Upon the favorable vote of two-thirds of the students voting in an election held for the purpose at a state college, in such manner as the trustees shall prescribe, and open to all regular students enrolled in the university or college, the trustees are authorized to fix, in addition to any other student fee the trustees are authorized to fix, a building and operating fee not to exceed twenty dollars (\$20) per student per academic year which shall be required of all students attending the university or college. All unexpended funds and money collected by any state college under this section shall be available for financing, operating and constructing a student body center, and until so used, shall, subject to the approval of the trustees, be deposited or invested in trust by the chief fiscal officer of that university or college in any one or more of the following ways:

(a) Deposits in trust accounts of the centralized State Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the State Colleges Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations; provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation; and provided further that any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by such insurance.

(c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the State Treasurer in those securities.

(d) Participation in funds which are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.

The chief fiscal officer of each college shall be custodian of those moneys and provide the necessary accounting records and controls thereof.

The state university or college shall be reimbursed from these funds in an amount to cover the cost of the custodial and accounting services provided by the university or college in connection with these funds.

These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by an elected representative of the student body or his appointee.

## Article 2. Travel Expenses

89310. The trustees may authorize the allowance of actual and necessary traveling expenses to students, who are serving on study teams, task forces, or similar groups formed by the trustees or by the office of the chancellor, and are attending meetings of any association, organization, or agency having as its principal purpose the study of matters relating to education at state universities and colleges or to a particular field or fields of education at the state universities and colleges. Traveling expenses shall not be allowed with respect to student lobbyists or representatives in Sacramento or for travel out of the state.

The provisions of Section 11032 of the Government Code shall not apply to allowances authorized by this section.

Article 4. Pilot Project for California Residents 60  
Years of Age or Older

89330. The Trustees of the California State University and Colleges may authorize the establishment at two institutions of the California State University and Colleges of a two-year pilot project which allows persons 60 years of age or older to enroll in regular credit courses without requiring the payment of the application for admission fee or regular session registration fees.

89331. The pilot project established pursuant to this article shall be maintained in accordance with the following standards:

(a) Enrollment shall be limited to qualified persons who are residents, as defined by Section 68017, and are 60 years of age or older on the residence determination date.

(b) Persons enrolling in the project shall be registered last, after regular students have been registered for classes.

(c) No special classes limited to, or designed particularly for, senior citizens shall be established.

89332. Fee waivers authorized pursuant to this article shall not be in place of fee waivers for disadvantaged students.

89333. The Trustees of the California State University and Colleges shall adopt regulations for the effective administration of this article.

89334. The Trustees of the California State University and Colleges shall make a preliminary report after the first year of the pilot project established pursuant to this article and a final report after the second year of the pilot project to the Governor, the Legislature, and the California Postsecondary Education Commission on the operation of the pilot project, including, but not limited to, the characteristics of the students participating in the pilot project and a breakdown of the costs incurred.

89335. This article shall remain in effect only until July 1, 1978, and as of that date is repealed.

## CHAPTER 4. CHILD DEVELOPMENT CENTERS

## Article 1. General Provisions

89400. The Trustees of the California State University and Colleges and any other public or private nonprofit agency may contract with the Department of Education to establish and maintain a child development center on or near each state university or college campus pursuant to the provisions of Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.

89401. The trustees and any other public or private nonprofit agency may contract with the Department of Education to establish and maintain such campus child development centers. Such operating agencies may accept student fees, parent fees, and private funds to operate child development centers and may be reimbursed for eligible costs pursuant to Sections 16708 and 16780.

89402. Notwithstanding any other provision of law, children under two years of age whose parent or parents are students may attend child development centers consistent with the priorities established.

89403. Children of students of that particular campus shall have first priority for attendance at a campus child development center.

Student families, as defined in Section 8250.1, whose gross monthly income falls within the fee schedule established pursuant to Section 8249 shall pay fees according to the fee schedule.

Highest priority shall be given to student families with the greatest income deficit, and lowest priority to student families with the greatest income.

For the purposes of assigning eligibility priority, applicant student families shall be grouped according to the amount of their income in one-hundred-dollar (\$100) monthly increments. All student families with a particular income range shall be treated as if their incomes were the same, and priority for eligibility within each particular income range shall be assigned on the following basis:

(1) Single-parent student families.

(2) Two-parent families, where both parents are students or where one parent is a student and the other is working.

Student families who are recipients of public assistance shall be subject to the same assignment of priority as other student families whose incomes fall in the same income range.

89404. Each child development center maintained pursuant to Section 89400 shall have an advisory council, composed of representatives of the parent-users and persons from fields related to the well-being of children.

## Article 2. San Francisco State University

89410. The California State University, San Francisco may maintain a child care center as an integral part of the state university.

The center shall be used for observation, demonstration, study, student experience, and student teaching.

89411. The trustees shall determine the fee which the state university shall charge the parents or guardian of any child admitted to the center. All fees shall be used to reimburse the state university for the cost of operating and maintaining the center.

89412. No child shall be admitted to the center unless he meets the requirements for admittance to a child development center.

89413. The budget for the center may be prepared and submitted to the trustees with the budget of the state university.

## CHAPTER 5. PERSONNEL

### Article 1. General Provisions

89500. Notwithstanding any other provision of law, the trustees shall provide by rule for the government of their appointees and employees, pursuant to the provisions of this chapter and other applicable provisions of law, including, but not limited to, appointment, classification, terms, duties, pay and overtime pay, leave of absence, tenure, vacation, layoff, dismissal, demotion, suspension, sick leave and reinstatement.

The rules adopted by the trustees relating to tenure, layoff, dismissal, demotion, suspension, and reinstatement of academic and administrative employees shall be adopted on or before February 1, 1962 and become effective on July 1, 1962, with respect to employees who are academic teaching and administrative employees as defined in subdivision (1) (e) of Section 24301 as added by Chapter 1010 of the Statutes of 1972.

89501. The trustees shall make an annual report to the Governor and to each house of the Legislature on matters pertaining to and affecting the salaries, wages, hours of work, conditions of work and other matters relating to personnel under the jurisdiction of the trustees. The report shall be filed with the Governor and each house of the Legislature within five days after the opening day of the Legislature in each year.

89502. It is the policy of the state that the workweek of the employees of the California State University and Colleges shall be 40 hours, and the workday of such employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different campuses and facilities. It is the policy of the state to avoid the necessity for overtime work whenever possible.

This policy does not restrict the extension of regular working-hour schedules on an overtime basis when such action is necessary to carry on the business of the California State University and Colleges properly during a manpower shortage.

The trustees may provide for the payment of overtime in designated classes for work performed after the normal scheduled

workday or normal scheduled workweek, when such designation is appropriate to such designated class.

89503. (a) The trustees may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees of the class specified in Section 18853 of the Government Code employed by the trustees, upon a finding by the trustees as to any such position that the criteria stated in Section 18853.5, subdivision (a), of the Government Code are satisfied.

(b) Payments made by the state pursuant to this section to any such fund on behalf of any employees shall be in lieu of benefits such as vacation allowance, sick leave, and retirement which are now or may hereafter be granted directly by the state in accordance with law.

(c) The trustees are empowered to determine the equitable application of this section to insure that the employees receive benefits comparable to, but not in excess of, those provided in comparable private employment.

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the California State University and Colleges.

89504. Upon separation from service, without fault on his part, a nonacademic employee is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which he is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the trustees.

Such sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had he taken the time off but not separated from the service. A nonacademic employee separated from service through fault of his own is entitled to a lump-sum payment for such compensating time off for overtime work, similarly computed, and in addition, such portion, if any, of unused vacation as the trustees may determine.

89505. The trustees, subject to such conditions as they may establish, may purchase annuity contracts for any of their employees, and shall reduce the salary of any such employee for whom such contract is purchased in the amount of the cost thereof; provided that each of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 of the United States.

(b) The employee makes application to the trustees for such purchase and reduction of salary.

(c) All provisions of the Insurance Code applicable to the purchase of such annuities are satisfied.

89506. The trustees, subject to such conditions as they may establish, may enter into contracts of group life insurance and contracts of group disability insurance or protection with respect to

any class of their employees they may designate or with respect to all such employees, with any insurer, medical service plan, or nonprofit hospital service plan corporation they may select; provided, that all applicable provisions of state law relating to any such coverage, or to the qualifications of the provider of coverage, are satisfied.

89507. The trustees, subject to such conditions as they may impose, may establish a program of motor vehicle liability and automobile insurance with respect to any class of their employees they may designate or with respect to all such employees, with any insurer or insurers, insurance broker or brokers, or insurance agent or agents, they may select, provided that all applicable provisions of the Insurance Code relating to any such insurance, or to the qualifications of the insurer, broker, or agent, are satisfied. The premiums of such a program of insurance shall be borne by the employees participating therein.

89508. Each person holding a four-year term appointment under Section 80507 on June 30, 1961, regardless of when the term commenced, shall on that date be entitled to all personnel benefits and rights under the law which would have attached to his position if he had been appointed and had served throughout his state college employment under the provisions of law applicable to persons serving under appointments made pursuant to Article 2 (commencing with Section 89530) of this chapter.

On and after July 1, 1961, each such person shall be entitled to all personnel benefits and rights conferred by Section 66609 of this code upon state employees appointed pursuant to said Article 2 and transferred to the Trustees of the California State University and Colleges by that section.

89509. The employment of any employee of the trustees, excepting those employees who on October 1, 1949, and on September 7, 1955, were members of the State Teachers' Retirement System, shall terminate on the first day of the calendar month next succeeding that in which he attains mandatory retirement age, except as provided in this section.

An academic or administrative employee may elect to continue in active service until the end of the college term or academic year during which he attains mandatory retirement age. An academic employee who reaches the mandatory retirement age, if mentally and physically sound, may be employed from year to year without tenure, for the good of the service, at the discretion of the trustees. The payment of retirement allowances by either the State Teachers' Retirement System or the Public Employees' Retirement System, or both of said systems, to such a person employed from year to year shall be suspended during the period of such employment or reemployment and such suspension shall not serve to reinstate such a person to membership in either of said systems. If a person should die during such a period of suspension, said systems shall pay any death benefits that would have been payable had the death not

occurred during such a period. A period of suspension shall end on the last day of the month during which such employment or reemployment is terminated. Said systems shall then resume the payment of the retirement allowance to such a person without change from what it was at the beginning of the latest period of suspension except for any change in the provisions governing the calculation of the allowance which was made during said period and made applicable to the persons then retired.

Any person over the mandatory retirement age who otherwise has the qualifications of an academic or administrative employee and who is not retired under the State Teachers' Retirement System or the Public Employees' Retirement System, if mentally and physically sound, may be employed from year to year without tenure at the discretion of the trustees. Such employment shall not entitle him to become a member of nor serve to reinstate him as a member of either of said systems.

As used in this section, "mandatory retirement age" means the mandatory retirement age as provided in Government Code Section 20981.

89510. The trustees may grant a leave of absence without compensation, for not to exceed one year, to any nonacademic employee after he has been employed by them for not less than one year. A leave of absence may be granted to a nonacademic employee with less than one year of service but only for the reason that he is temporarily incapacitated by illness.

89511. A leave of absence granted pursuant to Section 89510 to any nonacademic employee may be extended for not to exceed one year by the trustees except that during any national emergency declared by the President of the United States of America, such a leave of absence may be extended from year to year by the trustees.

89512. Upon the expiration of the leave of absence granted pursuant to Section 89510 or 89511 the employee to whom the leave of absence was granted is entitled to reinstatement in the position he held at the time the leave of absence was granted him, if the position is still in existence, or to any other comparable existing vacant position for which he is qualified.

89513. Every employee who has entered or who hereafter enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full-time paid service of the American Red Cross, during any period of national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be deemed to have been entitled or shall be entitled to absent himself from his duties.

Within six months after such employee honorably leaves such service or has been placed on inactive duty he shall be entitled to

return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he not absented himself from his duties.

89514. The time during which an employee of the trustees is on leave of absence without compensation shall not be credited toward retirement under any retirement system of the state. If such employee receives compensation during such leave of absence the time for which he receives such compensation shall be credited toward retirement. The period of any leave of absence shall not be construed as a break in the continuity of service required toward retirement.

89515. The trustees shall eliminate all policies which detrimentally and unreasonably affect the employment status of females hired by the California State University and Colleges. To accomplish this purpose, the trustees shall:

(a) Review hiring, wages, job classifications, and advancement practices as applied to female employees and take corrective measures where inequities exist;

(b) Review selection procedures utilized for employment of female employees to determine disparate selection practices;

(c) Assure opportunity of advancement for qualified female employees to executive positions within departments and divisions.

89516. The trustees may establish rules and regulations which allow academic employees to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20815 of the Government Code.

(a) The employee must have reached the age of 55 prior to reduction in workload.

(b) The employee must have been employed full time as an academic employee for at least 10 years of which the immediately preceding five years were full-time employment.

(c) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(d) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment.

The employee shall receive health benefits in the same manner as a full-time employee.

This section shall only be applicable to academic teaching employees who receive no higher salary than the maximum paid to a department chairman.

89517. The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis

need not be uniform throughout the state, but the trustees shall ascertain, as to each such position, the general prevailing rate of such wages in the various localities of the state.

In fixing such minimum and maximum salary limits within the various localities of the state, the trustees shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained for the various localities.

89518. Any librarian employed by the trustees on a 12-month basis in a fiscal year has the right to elect to be employed for one or more fiscal years on a 10-month basis. The compensation of any librarian making the election shall be reduced for any such fiscal year in the same proportion as the compensation of instructional academic employees whose fiscal year employment basis is changed from a 12-month basis to a 10-month basis.

## Article 2. Appointment, Tenure, Layoff and Dismissal of Employees

89530. (a) As used in this article, unless the context otherwise requires:

(1) "Dismissal" means dismissal for cause.

(2) "Layoff" means separation from a position for lack of funds or lack of work.

(3) "Probation" means the period an employee must serve before becoming entitled to permanent employment.

(4) "Permanent" means that the employee has a right to continued employment unless dismissed or laid off.

(b) This article does not apply to the California State University and Colleges presidents.

(c) This article does not apply to student assistants.

89531. Every nonacademic employee shall be appointed for one year which is a probationary period. On reappointment for the second year, the employee shall be permanent at the same level and salary step or higher salary step as at completion of the probationary year.

89532. All vacant nonacademic positions shall, as far as practicable and consistent with the best interest of the California State University and Colleges be filled from qualified nonacademic employees serving in lower positions in the same or related series.

89533. Any nonacademic employee shall be required to serve only one probationary period to gain permanent status in a position or in a substantially similar position. If such an employee is promoted to a position with substantially different duties or to a position that requires additional duties and abilities, he shall serve an additional probationary period; but if he does not become permanent in the new position, he shall have the right to return to any class in which he was permanent or to the class in which he was serving before his

promotion. An employee who is promoted before he completed the probationary period in the lower class and is returned to such class without having become permanent in the new position shall receive credit toward permanent status in the lower class for the period of time he had previously performed satisfactorily therein. An employee who is promoted before he completed the probationary period in the lower class shall earn permanent status in the lower class at the end of one year from the original appointment date in the lower class, provided the duties in the higher class are substantially similar to the duties in the lower class and the employee's performance in both classes has been satisfactory.

89534. The trustees shall adopt rules prescribing the form, time and method of notice of rejection at any time during the probationary period to any probationary nonacademic employee, or notice of intention not to recommend reappointment of an academic employee for the succeeding year to any such employee not having permanent status.

89535. Any permanent or probationary employee may be dismissed, demoted, or suspended for the following causes:

- (a) Immoral conduct.
- (b) Unprofessional conduct.
- (c) Dishonesty.
- (d) Incompetency.
- (e) Addiction to the use of narcotics or habit-forming drugs.
- (f) Failure or refusal to perform the normal and reasonable duties of the position.
- (g) Conviction of a felony or conviction of any misdemeanor involving moral turpitude.
- (h) Fraud in securing appointment.
- (i) Drunkenness on duty.

89536. Any permanent or probationary employee who is physically or mentally unfit for the position occupied may be suspended, demoted, or dismissed pursuant to the provisions of Sections 89538, 89539, and 89540.

89537. "Unprofessional conduct" as used in Section 89535 includes, but is not limited to:

(a) Membership in, or active support of, a "communist front," a "communist action" organization, or a communist organization, as those terms are now defined in the act of the Congress of the United States designated as "Internal Security Act of 1950."

(b) Persistent active participation in public meetings conducted or sponsored by an organization mentioned in subdivision (a) of this section.

(c) Willful advocacy of the overthrow of the government of the United States or of the state, by force, violence or other unlawful means, either on or off the campus.

(d) Willful advocacy of communism, either on or off the campus, for the purpose of undermining the patriotism of pupils, or with the intent to indoctrinate any student with communism or inculcate a

preference for communism in the mind of any student.

89538. Notice of dismissal, demotion, or suspension for cause of an employee shall be in writing, signed by the chancellor or his designee and be served on the employee, setting forth a statement of causes, the events or transactions upon which the causes are based, the nature of the penalty and the effective date, and a statement of the employee's right to answer within 20 days and request a hearing before the State Personnel Board.

Notice of the reassignment of an administrative employee pursuant to Section 66609 shall be in writing and shall be served on the employee setting forth a statement of the employee's right to answer within 20 days and request a hearing before the trustees but only on the question of whether the position to which he is reassigned is commensurate with his qualifications.

89539. Any employee dismissed, suspended, or demoted for cause may request a hearing by the State Personnel Board by filing such a request, in writing, with the board within 20 days of being served with the notice. The request may be on the grounds that the required procedure was not followed; that there is no ground for dismissal, suspension, or demotion; that the penalty is excessive, unreasonable, or discriminatory; or that the employee did not do the acts or omissions alleged as the events or transactions upon which the causes are based; or that the acts or omissions alleged as the events or transactions upon which the causes are based were justified.

The State Personnel Board shall hold a hearing, following the same procedure as in state civil service proceedings and shall render a decision affirming, modifying or revoking the action taken. In a hearing, the burden of proof shall be on the party taking the dismissal action.

An administrative employee reassigned pursuant to Section 66609 may request a hearing by the trustees by filing a request for a hearing, in writing, with the trustees within 20 days of being served with the notice. The request may be on the grounds that the required procedure was not followed or that the position to which the employee is reassigned is not commensurate with his qualifications. The trustees shall hold a hearing, and shall render a decision affirming, modifying, or revoking the action taken.

89540. If the dismissal, suspension, or demotion or the reassignment is revoked or modified by the State Personnel Board or the trustees, the employee shall be restored to his position in accord with the decision, and shall be paid back salary equal to that which the employee would have earned if continuously employed in accord with the decision.

89541. Absence without leave of an employee, whether voluntary or involuntary, for five consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked.

An employee may within 90 days of the effective date of such separation file a written request with the State Personnel Board for

reinstatement. If the appointing authority has notified the employee of his automatic resignation, any request for reinstatement must be in writing and filed within 15 days of the service of notice of separation. Notice may be personally served or it may be served by mail to the last known residence or business address of the addressee and is complete on mailing. Proof of service, either personal or by mail, shall be made by affidavit. Reinstatement may be granted only if the employee makes a satisfactory explanation to the board as to the cause of his absence and his failure to obtain leave therefor, and the board finds that he is ready, able, and willing to resume the discharge of the duties of his position or, if not, that he has obtained the consent of his appointing power to a leave of absence to commence upon reinstatement.

Any employee so reinstated shall not be paid salary for the period of his absence or separation or for any portion thereof.

89542. If a petition to set aside the resignation of any employee is filed with the State Personnel Board within 30 days after the last date upon which services to the state university or college are rendered, or the date the resignation is tendered, whichever is later, the resignation may be set aside on the ground that it was given or obtained pursuant to or by reason of mistake, fraud, duress, undue influence, or that for any other reason it was not the free, voluntary, and binding act of the person resigning. The State Personnel Board shall hold a hearing and render a decision on the petition following the same procedure as in the state civil service procedures governing resignations from the state civil service.

89542.5. The Trustees of the California State University and Colleges shall establish grievance and disciplinary action procedures for all academic employees, including all temporary employees who have been employed for more than one semester or quarter, whereby:

(a) Grievances and disciplinary actions shall be heard by a faculty hearing committee composed of full-time faculty members, selected by lot from a panel elected by the campus faculty, which shall make a recommendation to the president of the state university or college.

(b) The grievance or disciplinary hearing shall be open to the public at the option of the person aggrieved or the person charged in a disciplinary hearing.

(c) Each party to the dispute shall have the right of representation by a faculty adviser or counsel of his choice and to be provided access to a complete record of the hearing.

(d) If there is disagreement between the faculty hearing committee's decision and the university or college president's decision, the matter shall go before an arbitrator whose decision shall be final.

(e) The costs incurred in arbitration shall be paid by the university or college.

(f) If the parties cannot agree upon an arbitrator, either party may petition either the Federal Mediation Service, the State

Conciliation Service, or the American Arbitration Association for a list of seven qualified, disinterested persons, from which list each party shall alternate in striking three names, and the remaining person shall be designated as the arbitrator.

The grievance procedure established pursuant to this section shall be exclusive with respect to any grievance which is not subject to a State Personnel Board hearing. In the case of a grievance or disciplinary action which is subject to a State Personnel Board hearing, pursuant to Sections 89535 to 89539, inclusive, and Section 89542 the procedures provided for in those sections or those provided for in this section may be utilized. The academic employee shall have the choice of which procedures shall be utilized.

For purposes of this section, a "grievance" is an allegation by an employee that he was directly wronged in connection with the rights accruing to his job classification, benefits, working conditions, appointment, reappointment, tenure, promotion, reassignment, or the like. A grievance does not include matters, such as the salary structure, which require legislative action.

89543. The trustees shall adopt regulations for determination of the order in which nonacademic employees shall be laid off for lack of funds or because of lack of work. To the extent the trustees shall deem practical such regulations shall provide for layoff in the inverse order of employment.

The trustees shall adopt rules governing the reemployment of nonacademic employees laid off, pursuant to this section. To the extent the trustees deem practical, such regulations shall include provision that for a period of five years following layoff, an employee shall have a preferential right to reemployment in the same or a comparable position, in the event of a vacancy. This preferential right shall give the employee laid off the right to reemployment in a position comparable to that from which he was laid off over any person not employed at the time the particular employee was laid off.

89544. A permanent nonacademic employee may, with his consent and the approval of the trustees, be employed at less than full time and retain permanent status. Seniority credit and any other credit shall be gained only in the proportion the actual time employed is to full-time employment in the position.

89545. Whenever a new campus of the California State University and Colleges is established and an employee is transferred from an existing campus of the California State University and Colleges to the newly established campus before or during the first academic year of the newly established campus, each employee so transferred shall be entitled to retain all sickness and injury, sabbatical and other leave rights and all seniority and tenure rights accumulated as an employee of the existing campus of the California State University and Colleges as though the rights had been accumulated as an employee of the newly established campus of the California State University and Colleges.

Whenever the educational program of a newly established campus of the California State University and Colleges is, during the first year of its existence, limited to an off-campus educational program rather than a regular educational program, any employee transferring from an existing campus of the California State University and Colleges to the newly established campus of the California State University and Colleges before or during the first three academic years of the newly established campus shall be entitled to retain all sickness and injury, sabbatical and other leave rights and all seniority and tenure rights accumulated as an employee of the existing campus as though the rights had been accumulated as an employee of the newly established campus.

### Article 3. California State University and Colleges Police

89560. The trustees may appoint one or more persons to constitute a police department for the headquarters and for each campus of the California State University and Colleges. Persons employed and compensated as members of a California State University and Colleges police department, when so appointed and duly sworn, are peace officers; provided that such officers shall not exercise their powers or authority except (a) at the headquarters or upon any campus of the California State University and Colleges and in an area within one mile of the exterior boundaries of each such campus or the headquarters, and in or about other grounds or properties owned, operated, controlled, or administered by the California State University and Colleges, or by trustees or the state on behalf of the California State University and Colleges, and (b) as provided in Section 830.2 of the Penal Code.

89561. Every member of a California State University and Colleges police department shall be supplied with, and authorized to wear, a badge bearing the words "California State University and Colleges Police."

## CHAPTER 6. FINANCE

### Article 1. Fees, Rents, and Charges

89700. The trustees may by rule require all persons to pay fees, rents, deposits, and charges for services, facilities or materials provided by the trustees to such persons, except that fees relating to parking shall be subject to the approval of the Director of General Services. The trustees may, by rule, provide for the method of collecting such fees, rents, deposits, and charges, and may, by rule, provide for the refund in whole or part of such fees, rents, deposits, and charges collected in error or collected for facilities, services, or materials not utilized.

89701. The trustees are authorized to acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section

15850), Division 3, Title 2, Government Code) or by lease or other means, real property and to construct, operate and maintain motor vehicle parking facilities thereon for state college officers, employees, students, or other persons. The trustees may prescribe the terms and conditions of such parking, and of parking on facilities existing on the effective date of this section, including the payment of parking fees in such amounts and under such circumstances as may be determined by the trustees. Varying rates of parking fees may be established for different localities or for different parking facilities. In determining rates of parking fees the trustees may consider the rates charged in the same locality by other public agencies and by private employers for employee parking, and the rates charged to students by other universities and colleges.

Except as otherwise provided in this section, revenues received by the trustees from any of the hereinabove motor vehicle parking facilities, as well as from all parking facilities existing on the effective date of this section, shall be transmitted to the State Treasurer and shall be deposited by that officer in the State Treasury to the credit of the State College Parking Revenue Fund, which fund is hereby created. The trustees may pledge all or any part of such revenues in connection with bonds or notes issued pursuant to the State College Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8) of this part in which case such revenues shall be deposited, transmitted and used in the manner provided by that act. All revenues received by the trustees from parking facilities, to the extent not pledged in connection with bonds or notes issued pursuant to the State College Revenue Bond Act of 1947, are hereby appropriated, without regard to fiscal years, to the trustees for the acquisition, construction, operation and maintenance of motor vehicle parking facilities on real property acquired hereunder or on real property otherwise under the jurisdiction of the trustees, and for the study of alternate methods of transportation for students and employees of the California State University and Colleges. Moneys in the State College Parking Revenue Fund may be invested by the State Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer, and shall be deposited in the State Treasury to the credit of the State College Parking Revenue Fund.

The Legislature by this section does not intend to authorize the institution of a private parking program unrelated to state purposes in competition with private industry.

89702. The Trustees of the California State University and Colleges may acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850), Division 3, Title 2, of the Government Code) or by lease or other means, real property and may construct and improve student health centers entirely or in part by the use of funds acquired pursuant to this section.

The trustees may prescribe under Section 89700 a fee to provide for the acquisition, construction, and improvement of such facilities, in such amounts and under such circumstances as may be determined by the trustees.

Except as otherwise provided in this section, revenues received by the trustees from such facilities fee shall be transmitted to the State Treasurer and shall be deposited by that officer in the State Treasury to the credit of the State University and College Facilities Revenue Fund, which fund is hereby created. The trustees may pledge all or any part of such revenues in connection with bonds or notes issued pursuant to the State University and College Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8 of this part), in which case such revenues shall be deposited, transmitted and used in the manner provided by that law. All revenues received by the trustees from such facilities fee, to the extent not pledged in connection with bonds or notes issued pursuant to the State University and College Revenue Bond Act of 1947, are hereby appropriated, without regard to fiscal years, to the trustees for the acquisition, construction, and improvement of student health centers on real property acquired hereunder or on real property otherwise under the jurisdiction of the trustees. Moneys in the State University and College Facilities Revenue Fund may be invested by the State Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer, and shall be deposited in the State Treasury to the credit of the State University and College Facilities Revenue Fund.

All capital outlay projects in excess of sixty-five thousand dollars (\$65,000) to be constructed with revenue from the fee established pursuant to this section shall be approved by the Legislature.

89703. Except as otherwise provided, the total tuition fees charged any student in the California State University and Colleges shall not exceed twenty-five dollars (\$25) per year or twelve dollars and fifty cents (\$12.50) per term.

89704. Notwithstanding any other provision of law to the contrary, revenues received by the Trustees of the California State University and Colleges from extension programs, special session and other self-supporting instructional programs, including but not limited to fees and charges required by the trustees, shall be transmitted to the State Treasurer and shall be deposited by that officer in the State Treasury to the credit of the State University and College Continuing Education Revenue Fund, which fund is hereby created, and which is hereby designated as successor to the State College Extension Program Revenue Fund.

All such revenues are hereby appropriated, without regard to fiscal years, to the trustees for the support and development of self-supporting instructional programs of the California State University and Colleges; provided, nevertheless, that proposed

expenditures or obligations to be incurred during any fiscal year from the State University and College Continuing Education Revenue Fund shall be contained in the budget submitted for that fiscal year by the Governor pursuant to Section 12 of Article IV of the Constitution, and shall be subject to the provisions of Article 2 (commencing with Section 13320) of Chapter 3, Part 3, Division 3, Title 2, of the Government Code.

Moneys in the State University and College Continuing Education Revenue Fund may be invested by the State Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer and shall be deposited in the State Treasury to the credit of the State University and College Continuing Education Revenue Fund.

89705. (a) Except as otherwise specially provided, an admission fee and rate of tuition fixed by the trustees shall be required of each nonresident student. The rate of tuition to be paid by each nonresident student, as defined in Section 68018, shall not be less than three hundred sixty dollars (\$360) per year. The rate of tuition paid by each nonresident student who is a citizen and resident of a foreign country and not a citizen of the United States, except as otherwise specifically provided, shall be fixed by the trustees and shall not be less than three hundred sixty dollars (\$360) per year. The tuition fee for a nonresident student who is a citizen and resident of a foreign country and who was in attendance at a state university or college during the fall term of 1969, may be waived by the trustees if they determine that the increased tuition fee will cause a severe financial hardship on the student. Such waivers may be granted through the spring term of 1973 or until the student receives a baccalaureate degree, whichever occurs first.

(b) The trustees may waive entirely, or reduce below the rate, or the minimum rate, fixed by this section, the tuition fee of a nonresident student who is a citizen and resident of a foreign country and not a citizen of the United States and who attends a state university or college under an agreement entered into by a governmental agency or a nonprofit corporation or organization with a similar agency, or corporation or association, domiciled in and organized under laws of a foreign country, where a principal purpose of the agreement is to encourage the exchange of students with the view of enhancing international good will and understanding. The trustees shall, in each instance, determine whether the conditions for such exemption from fees exist and may prescribe appropriate procedures to be complied with in obtaining the exemption.

89706. The trustees have the power, on the basis of demonstrated financial need and scholastic achievement, to waive entirely, or to reduce below the rate, or the minimum rate, fixed by Section 89705, the tuition fee of a nonresident student, as defined in Section 68018, who is a citizen and resident of a foreign country who is an

undergraduate student of exceptional scholastic ability and prior scholastic achievement who is enrolled in a course of study of no less than 10 semester units.

The number of reductions and waivers granted by the trustees under this section shall at no time exceed 7½ percent of the nonresident undergraduate students who are citizens and residents of a foreign country, then enrolled in the California State University and Colleges.

89707. The trustees shall have the power, on the basis of demonstrated financial need and scholastic achievement, to waive entirely, or to reduce below the rate, or the minimum rate, fixed by Section 89705, the tuition fee of a nonresident student or a nonresident student, as defined in Section 68018, who is a citizen and resident of a foreign country who is a graduate student of exceptional scholastic ability and prior scholastic achievement who, while not employed full time by a university or state college, is employed 20 hours or more a week by a university or state college or is enrolled in a course of study of not less than 10 semester or quarter units.

The number of reductions and waivers granted by the trustees under this section shall at no time exceed twenty-five percent (25%) of the nonresident graduate students, including nonresident graduate students who are citizens and residents of a foreign country, then enrolled in the California State University and Colleges.

89707.5. Notwithstanding the provisions of Section 89301, a nonresident student who is a citizen and resident of a foreign country and not a citizen of the United States may pay the nonresident tuition fee required of such students in three equal installments per semester if attending on the semester system or in two equal installments per quarter if attending on the quarter system. Any such student shall pay all registration fees required of resident students by the same date as required for resident students. The first installment of the nonresident tuition fee for a nonresident student who is a citizen and resident of a foreign country and not a citizen of the United States shall be due no sooner than 30 days following the deadline for payment of registration fees by resident students. The trustees shall establish an appropriate payment schedule for payment of the nonresident tuition fee and may assess a service charge to finance the cost of administering this installment plan consistent with the provisions of this section.

89708. Tuition fees adequate, in the long run, to meet the cost of maintaining special sessions in the California State University and Colleges shall be required of, and collected from, students enrolled in each such special session under and pursuant to rules and regulations prescribed by the trustees.

“Special sessions” as used in this division shall mean self-supporting instructional programs conducted by the California State University and Colleges. Such special sessions shall include, but not be limited to, career enrichment and retraining programs. It is the intent of the

Legislature that those programs, currently offered on a self-supporting basis by the California State University and Colleges during summer sessions, may be provided throughout the year, and shall be known as special sessions. Such self-supporting special sessions shall not supplant regular course offerings available on a non-self-supporting basis during the regular academic year.

89709. The trustees may require and collect special fees to cover cost of materials for specific services and other fees to cover the cost of accommodation services and other services provided students from students enrolled in each special session.

89710. To enhance the opportunities for California State University and Colleges employees to participate in training and career development the trustees may, subject to such rules and regulations as they may establish, waive entirely or reduce any or all fees for such employees who enroll in work-related courses offered by the California State University and Colleges necessary for improving skills for existing jobs or advancement in accordance with a career development plan at the California State University and Colleges.

## Article 2. Revenues

89720. The trustees may accept on behalf of the state any gift, bequest, devise, or donation of real or personal property whenever such gift and the terms and conditions thereof will aid in carrying out the primary functions of the state colleges as specified in Section 66608. Neither Section 11005 of the Government Code nor any other provision of law requiring approval by a state officer of gifts, bequests, devises, or donations shall apply to such gifts, bequests, devises, or donations. Such gifts, bequests, devises, or donations, and the disposition thereof, shall be annually reported to the California Postsecondary Education Commission, the Joint Legislative Budget Committee and the Department of Finance by January 5 of each year.

89721. Notwithstanding any other provision of law to the contrary, the chief fiscal officer of each campus of the California State University and Colleges shall deposit into and maintain in local trust accounts or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University and Colleges Trust Fund, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University and Colleges.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services and materials authorized by Section 89100 where such fees or charges are required of those persons who, at their option, use the services or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing such services and materials.

89722. The California State University and Colleges Trust Fund is hereby created in the State Treasury. Money in the California State University and Colleges Trust Fund is appropriated to the trustees as provided in Section 89724. Interest accruing upon the investment of moneys of the California State University and Colleges Trust Fund shall be paid into and credited to such fund. The trustees shall apportion as of June 30 and December 31 of each year the revenues earned and deposited in the fund during the six calendar months ending with such dates. There shall be apportioned and credited to each campus of the California State University and Colleges having deposits in the fund, an amount directly proportionate to the total deposits in the fund and the length of time such deposits remained therein. The chief fiscal officer of each campus of the California State University and Colleges may allocate further this amount to the extent considered necessary.

89723. The trustees are vested with all necessary power to perform acts, receive and expend funds, and cooperate with state and federal agencies as provided in Section 12400 for the purpose of receiving and spending the funds provided by the act of Congress entitled "An act to strengthen the national defense and to encourage and assist in the expansion and improvement of educational programs to meet critical national needs; and for other purposes" (National Defense Education Act of 1958), approved September 2, 1958, and the act of Congress entitled "An act to amend the Public Health Service Act to increase the opportunities for training professional nursing personnel, and for other purposes" (Nurse Training Act of 1964), approved September 4, 1964.

The trustees may provide for the establishment and maintenance of student loan funds pursuant to any of said acts of Congress. Money allocated for the purpose of establishing a student loan fund at a campus of the California State University and Colleges may be withdrawn from the State Treasury and deposited to the credit of that institution in a trust account in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code for the purpose of making loans to students in accordance with the federal acts.

89724. (a) All money received from the sale of publications

pursuant to Section 90500, all money received under an agreement entered into pursuant to Section 89036, and except as to the fees and charges specified in subdivision (g) of Section 89721, all money collected as fees from students in any state university or college and from other persons under Section 89030, Sections 89036 to 89040, inclusive, and Sections 89100, 89705, 89708, 89709, 89720, and 89721, and by reason of Section 2080.9 of the Civil Code, is hereby appropriated for the support of the California State University and Colleges in addition to such other amounts as may be appropriated therefor by the Legislature. Money received under Sections 89720 and 89721, or received by reason of Section 2080.9 of the Civil Code, is appropriated without regard to fiscal year; provided, that money received by reason of Section 2080.9 of the Civil Code shall be used for student scholarships and loans pursuant to such regulations as the trustees shall provide, and while held pending the grant of a scholarship or loan, may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investment shall also be used for such scholarships and loans; and provided further, that money received by reason of Sections 89720 and 89721 may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code, in which case all interest and other earnings received pursuant to such investment shall also be used for such purposes as may be established by the trustees consistent with the terms and conditions of the gift, bequest, devise, donation, or agreement under Sections 89720 and 89721. Except as otherwise provided with respect to money received by reason of Section 2080.9 of the Civil Code and Sections 89720 and 89721 of the Education Code, all money received pursuant to this section shall augment the support appropriation to the California State University and Colleges for the fiscal year to which the collections apply.

(b) All money received from the sale or the disposition of real property acquired by or on behalf of a particular state university or college by gift, devise, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for the acquisition and improvement of real property for such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. All money received from the sale or other disposition of personal property, other than money, acquired by or on behalf of a particular state university or college by gift, bequest, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for, or the acquisition and improvement of real or personal property for, such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. No money shall be

expended by the trustees under this subdivision without the approval of the Director of Finance. Such money shall augment such support or capital outlay appropriation of the California State University and Colleges current at the date of issuance of the State Controller's receipt therefor as may be designated by the trustees prior to their deposit in the State Treasury.

89725. Notwithstanding any other provision of law to the contrary, grants, revenues and funds of any nature received by the trustees for research, workshops, conferences, institutes and special projects from the state, federal government, local government, or private persons, may be transmitted to the State Treasurer and, if transmitted, shall be deposited in the State Treasury to the credit of the California State University and Colleges Special Projects Fund, which fund is hereby created.

All such grants, revenues and funds are hereby appropriated without regard to fiscal years to the trustees for the operation, support, and development of research, workshops, conferences, institutes, and special projects in the California State University and Colleges.

Provision shall be made by the trustees for reimbursements to the General Fund for the cost of space and services furnished to projects funded by the California State University and Colleges Special Projects Fund.

Notwithstanding any other provision of the law to the contrary, the trustees shall have authority to establish the rules and procedures under which the fund shall operate. All expenditures shall be made in accordance with such rules and procedures, without prior approval of the Department of General Services or the Department of Finance. All expenditures shall receive an annual postaudit by the Audits Division of the Department of Finance.

Moneys in the California State University and Colleges Special Projects Fund may be invested by the State Treasurer, upon approval of the trustees in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer and shall be deposited in the State Treasury to the credit of the California State University and Colleges Special Projects Fund.

### Article 3. Budgeting Systems

89730. The Legislature does not regard budgeting by standardized formulas as necessarily the most effective nor efficient way to govern dissimilar institutions of higher education. The Legislature recognizes the need to determine if a more efficient allocation of state resources may ensue if more decisionmaking power were decentralized to the campus and departmental levels.

89731. The trustees shall initiate a pilot management, planning, and budgeting system at selected state colleges beginning with the 1972-1973 fiscal year. The system shall be designed and implemented

by the trustees, with the full participation and approval of the Department of Finance.

89732. The pilot management, planning and budgeting system shall incorporate:

(a) A maximum delegation to the individual state colleges for utilizing physical and human resources within the total budget approved by the Legislature, the Department of Finance, and the trustees.

(b) The development of management systems and of sophisticated cost-benefit data.

89733. The Department of Finance and the trustees may delegate such authority to the individual state colleges selected for participation in the pilot management, planning, and budgeting system prescribed in this article as is needed to carry out the intent of this article.

89734. The trustees and the Department of Finance shall conduct fiscal postaudits and management reviews with respect to the pilot management, planning, and budgeting system prescribed in this article.

#### Article 4. Expenditures and Control

89750. The trustees shall control and expend all money appropriated for the support and maintenance of the California State University and Colleges, and all money received as donations pursuant to Section 89720.

89751. The State Treasurer is designated as the custodian of all funds received by the state from the government of the United States or of any agency or agencies thereof under any agreement for the education of veterans, and he may receive, and provide for the proper custody of, all money so received.

The funds received by the state shall be expended by the officers or agency administering the program to carry out the provisions of the act of the Congress and rules and regulations lawfully adopted thereunder. Such funds are exempt from the provisions of Section 925.6 of the Government Code and shall be paid out by the Treasurer on warrants drawn by the State Controller on claims submitted by the trustees.

89752. The trustees shall prescribe rules and regulations subject to the approval of and audit by the Department of Finance covering the collection, custody, and disposition of any and all money collected by any state college.

89753. All appropriations for the support of the California State University and Colleges and the trustees shall be subject to the provisions of Section 13320 of the Government Code and applicable Budget Act restrictions, with the following exceptions:

(a) The trustees may approve any transfer of funds within functions for which funds are appropriated for the support of the California State University and Colleges. In addition, the trustees

may authorize the augmentation of the amount available for a category designated in any schedule set forth for such appropriation by transfer from any of the other designated categories, including additional reimbursements within the same schedule, and shall furnish the Joint Legislative Budget Committee a report of such authorizations given during the preceding quarter.

(b) The trustees may approve the substitution of one item of equipment for another within budgetary functions and the use of savings in equipment allotments.

(c) The trustees may approve travel, both within and outside the state, and the payment of allowances and expenses related to travel, moving and the relocation of employees in accordance with the allowances established by the State Board of Control and within funds appropriated for this purpose.

(d) The trustees may, within funds appropriated for the support of the California State University and Colleges, establish new positions and make changes in existing positions and the position payroll roster, provided that all such new positions and significant changes, as defined by the Department of Finance, in grade or class of existing positions shall be shown as administrative adjustments in the subsequent budgetary submissions and shall be subject to review during the legislative budget process.

89754. The intent of Section 89753 is to give the trustees maximum responsibility within available funds. It is the further intent of the Legislature by said provisions to allow the trustees greater flexibility in their financial affairs and to allow the individual campuses greater flexibility in the expenditure of their appropriations.

89755. All actions of the trustees taken pursuant to Section 89753 are limited to the fiscal year in which the action is taken and subject to audit by the Department of Finance, as well as legislative review, prior to extension into the subsequent fiscal year.

89756. Notwithstanding any other provision of law, the chief administrative officer of each campus of the California State University and Colleges shall be responsible for the propriety of the expenditure, and the integrity of the financial reporting, of the following funds received by such campus:

- (1) State appropriations.
- (2) Gifts.
- (3) Bequests.
- (4) Trust funds.
- (5) Grants, loans, or combinations thereof.

The chief administrative officer shall also be responsible for the propriety of all expenditures, and the integrity of the financial reporting, made by auxiliary organizations. The chief administrative officer of a state university or college is, for the purpose of this section, the president of the university or college.

89757. (Repealed by Stats. 1976, Ch. 1011.)

## [ORIGINAL SECTION]

89757 Notwithstanding any other provision of law, the Trustees of the California State University and Colleges may initiate on a pilot basis, an exemption for two university campuses from salary savings requirements. This exemption is authorized in order to determine if a more effective administration of allocated resources can be implemented without fixed salary savings restrictions. In the event funds are necessary to support such an exemption, funds may be transferred from funds appropriated to the California State University and Colleges and the State Emergency Fund Provisions for such exemption, if initiated, shall be developed by the Trustees of the California State University and Colleges, subject to the approval of the Department of Finance and in cooperation with the office of the Legislative Analyst.

This section shall be operative from June 30, 1974, until June 30, 1976, and as of the latter date is repealed.

## CHAPTER 7. AUXILIARY ORGANIZATIONS

## Article 1. General Provisions

89900. (a) A certified public accountant shall be selected by each auxiliary organization described in Section 89901. Upon being notified of the certified public accountant selected by an auxiliary organization, the office of the chancellor shall forward the applicable auditing and reporting procedures to the selected certified public accountant. In accordance with procedures prescribed by the Department of Finance, such certified public accountant shall annually audit any and all state university or college auxiliary funds. The auxiliary organizations shall contract for and receive such audit annually, and shall submit such audit to the trustees and to the Director of Finance. Auxiliary organizations shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible and be available to any person on request. In the case of an auxiliary organization primarily serving a single campus of the California State University and Colleges, publication in the campus student newspaper shall be deemed compliance with this requirement. In the case of an auxiliary organization serving the trustees or the California State University and Colleges, distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the trustees shall be deemed compliance with this requirement.

(b) In the case of an auxiliary organization primarily serving a single campus of the California State University and Colleges, the president of that state university or college shall be responsible for ascertaining that all expenditures are in accordance with policies of the trustees, the propriety of all expenditures, and the integrity of the financial reporting, made by auxiliary organizations.

(c) The operation of auxiliary organizations shall be conducted in conformity with regulations established by the trustees, and the accounting procedures of such auxiliary organizations shall be approved by the Director of Finance. The regulations shall include provisions requiring the governing board of each auxiliary organization to provide salaries, working conditions and benefits, exclusive of retirement and permanent status benefits, for the

full-time employees of each auxiliary organization which are comparable to those provided California State University and Colleges employees performing similar services. For those employees whose duties are not comparable to classes in California State University and Colleges employment the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area.

89901. As used in this article, the term "auxiliary organization" includes the following entities:

(a) Any entity in which any official of the California State University or Colleges participates as a director as part of his official position.

(b) Any entity formed or operating pursuant to Article 1 (commencing with Section 89300) of Chapter 3 of this part.

(c) Any entity which operates a commercial service for the benefit of a campus of the California State University and Colleges on a campus or other property of the California State University and Colleges.

(d) Any entity whose governing instrument provides in substance that:

(1) Its purpose is to promote or assist any campus of the California State University and Colleges, or to receive gifts, property and funds to be used for the benefit of such campus or any person or organization having an official relationship therewith; and

(2) Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of an official of any campus of the California State University and Colleges, or selected, ex officio, from the membership of the student body or the faculty or the administrative staff of such campus.

(e) Any entity whose governing instrument provides in substance that:

(1) Its purpose is to promote or assist the trustees of the California State University and Colleges, or to receive gifts, property and funds to be used for the benefit of the trustees of the California State University and Colleges or any person or organization having an official relationship therewith; and

(2) Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the trustees or an official of the California State University and Colleges, or selected, ex officio, from the membership of the trustees or the administrative staff of the California State University and Colleges.

(f) Any entity which, exclusive of the foregoing subdivisions of this section, is designated as an auxiliary organization by the trustees.

89902. This article shall not apply to any student body organization not formed or operating pursuant to Article 1 (commencing with Section 89300) of Chapter 3 of this part nor to any student or faculty society, social club, fraternity, or sorority, nor to any alumni association, whether officially recognized as a campus organization or not, unless it is described in Section 89901.

This section shall not be construed to alter or limit the powers of the trustees to establish rules and regulations governing organizations which maintain an official relationship with any campus of the California State University and Colleges or which use the name or facilities of such campus.

89903. Each auxiliary organization formed pursuant to this article, shall have a board of directors composed, both as to size and categories of membership, in accordance with regulations established by the Trustees of the California State University and Colleges.

Each governing board shall, during each fiscal year, hold at least one business meeting each quarter. The board shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney at law nor the certified public accountant need be members of the board.

No auxiliary organization shall accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with policies of the trustees.

89904. All expenditures and fund appropriations of auxiliary organizations described in Section 89903 shall be approved by the governing board of the auxiliary organization. Appropriations of funds for use outside of the normal business operations of the auxiliary organization shall be approved in accordance with trustee policy and regulations by an officer designated by the trustees.

The trustees in consultation with the Department of Finance and the governing boards of the various auxiliary organizations described in Section 89903, on or before the beginning of the 1970-1971 fiscal year, shall:

(a) Institute a standard systemwide accounting and reporting system for businesslike management of the operation of such auxiliary organizations.

(b) Implement financial standards which will assure the fiscal viability of such various auxiliary organizations. Such standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, and adequate provisions for new business requirements.

(c) Institute procedures to assure that transactions of the auxiliary organizations are within the educational mission of the state colleges.

(d) Develop policies for the appropriation of funds derived from indirect cost payments not required to implement subdivision (b). Uses of such funds shall be regularly reported to the trustees.

89905. Operations of commercial services on a campus of the California State University and Colleges, such as a food service or bookstore, or such commercial services as may be provided in a university or college union, shall, when operated by an auxiliary organization, be self-supporting.

Any surplus funds from commercial operations shall be used for

such purposes as are consistent with regulations of the trustees.

89906. No member of the governing board of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he is a member, and any contract or transaction entered into in violation of this section is void.

89907. No contract or other transaction entered into by the governing board of an auxiliary organization is void under the provisions of Section 89906, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

(a) The fact of such financial interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members, and

(b) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

89908. The provisions of Section 89907 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

(a) The contract or transaction is between an auxiliary organization and a member of the governing board of that auxiliary organization.

(b) The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest.

(c) The contract or transaction is between an auxiliary organization and a corporation in which any member of the governing board of that auxiliary organization is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.

(d) A member of the governing board of an auxiliary organization is interested in a contract or transaction within the meaning of Section 89906, and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

89909. It is unlawful for any person to utilize any information, not a matter of public record, which is received by him by reason of his membership on the governing board of an auxiliary organization, for personal pecuniary gain, regardless of whether he is or is not a member of the governing board at the time such gain is realized.

## CHAPTER 8. HOUSING AND AUXILIARY SERVICES

## Article 1. Housing

90000. Student housing facilities may be established and maintained at any state university or college for the accommodation of students of the university or college.

90001. The trustees may require unmarried minor students of the state university or college, not living with a parent or guardian, to reside in private homes or other dwellings approved by the university or college, or to occupy student housing facilities provided at the university or college by the state.

90002. All student housing and any other related facilities operated by the College Auxiliary Enterprise Fund are hereby designated a "project" under the State College Revenue Bond Act of 1947 and subject to the provisions of that act. All assets, liabilities and fund balances of the College Auxiliary Enterprise Fund are hereby transferred from that fund to a separate account to be established by the trustees within the California State University and Colleges Dormitory Revenue Fund.

## Article 2. The State College Revenue Bond Act of 1947

90010. This article may be cited as "The State College Revenue Bond Act of 1947."

90011. The following terms wherever used or referred to in this article, or in any indenture entered into pursuant hereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Board" means the Trustees of the California State University and Colleges.

(b) "State college" and "campus of the California State University and Colleges" each means any of the institutions included within the California State University and Colleges as specified in Section 89001.

(c) The term "project" means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped and operated by the board for use by students, faculty members or other employees of any one or more campuses of the California State University and Colleges, or a combination of such facilities, which may include facilities already completed and facilities authorized for future completion, designated by the board as a project in providing for the issuance of revenue bonds or notes.

(d) The term "bonds" or "revenue bonds" means the written evidence of any obligation, other than revenue bond anticipation notes, issued by the board with the approval of the State Board of Control, payment of which is secured by a pledge of revenues or any

part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this article, irrespective of the form of such obligations.

(e) The terms “notes” and “revenue bond anticipation notes” mean the written evidence of any obligation issued by the board, pursuant to Section 90013, in anticipation of the sale of revenue bonds, for the purpose of obtaining funds to carry out the purposes of this article.

(f) The term “revenues” means and includes any and all fees, rates, rentals and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the board from the operation of or arising from a project, including any such revenue as may have been or may be impounded or deposited in any fund in the State Treasury created by this article for the security of any notes or bonds issued hereunder, or for the purpose of providing for the payment thereof or the interest thereon.

(g) The “holder of bonds” or “bondholder” or any similar terms shall mean any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any such outstanding revenue bond or bond which shall at the time be registered other than to bearer.

(h) The term “indenture” means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether such agreement is expressed in the form of a resolution of the board or by other instrument.

(i) The term “person” includes any individual, firm, corporation, association, copartnership, trust, business trust or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district or any agency thereof or of this state.

(j) (1) The present tense includes the past and future tenses; and the future, the present.

(2) The masculine gender includes the feminine and neuter.

(3) The singular number includes the plural, and the plural the singular.

(4) “Shall” is mandatory and “may” is permissive.

90012. The board, for the purposes of this article has power and is hereby authorized, in addition to and amplification of all other powers conferred upon said board by the Constitution of the State of California or by any statute of the State of California:

(a) To acquire subject to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, by grant, purchase, gift, devise, or lease, and to hold and use any real or personal property necessary or convenient or useful for the carrying on of any of its powers pursuant to the provisions of this article.

(b) To construct, operate and control any project.

(c) To fix rates, rents or other charges for the use of any project

acquired, constructed, equipped, furnished, operated or maintained by the board, or for services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the board with respect to the fixing of such rates, rents or charges.

(d) To enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any such contract or agreement with the holders of any bonds of the board.

(e) At any time and from time to time, with the approval of the State Board of Control, to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping or furnishing any project, or of refinancing any project, including payment of principal and interest on revenue bond anticipation notes, or for any combination of such purposes, which bonds may be secured as hereinafter provided.

(f) At any time and from time to time, with the approval of the State Board of Control, to issue revenue bond anticipation notes pursuant to Section 90013.

(g) To adopt such rules and regulations as may be necessary to enable the board to exercise the powers and to perform the duties conferred or imposed upon the board by this article.

(h) Nothing contained in this section or elsewhere in this article shall be construed directly or by implication to be in anywise in derogation of or in limitation of powers conferred upon or existing in the board by virtue of provisions of the Constitution or statutes of this state.

90013. The board, with the approval of the State Board of Control, may issue revenue bond anticipation notes, in anticipation of the sale of revenue bonds. Before issuing any such notes, the board shall, by resolution approved by the State Board of Control, authorize their issuance, declare the purpose for which the proceeds of the notes shall be expended and specify the maximum amount of notes to be issued for such purpose.

Revenue bond anticipation notes shall bear interest at such rate or rates as the board may determine, not exceeding 7 percent per annum, payable annually or semiannually, and shall mature on such date or dates as the board may determine and set forth in the resolution authorizing their issuance, but not more than three years from their date.

The proceeds from the sale of notes shall be used only for the purposes for which the proceeds of the sale of bonds may be used in anticipation whereof the notes are issued.

All notes issued, including renewal notes, and the interest thereon shall be payable from the proceeds of the sale of the bonds, the revenues of the project, any appropriations made for that purpose or all such sources, and not otherwise, except that in the event that the sale of the bonds shall not have occurred prior to the maturity of the notes issued in anticipation thereof, the board, with the approval of

the State Board of Control, may issue renewal notes in order to pay the notes then maturing. No renewal notes shall be issued after the sale of the bonds in anticipation of which the original note was issued.

Revenue bond anticipation notes may be secured by a pledge of, and lien upon, the proceeds of the sale of bonds, the revenues of the project and any other legally available funds.

A resolution authorizing the issuance of revenue bond anticipation notes may include such provisions as the board deems necessary or advisable for the security of the notes issued thereunder, and may include any and all provisions authorized to be included in indentures by this article.

90014. Notes authorized to be issued under this article shall be sold by the State Treasurer, for cash, in such manner as the said Treasurer shall be directed by a resolution requesting such sale adopted by the board and approved by the State Board of Control.

90015. The validity of the authorization and issuance of any revenue bonds or revenue bond anticipation notes by the board, with the approval of the State Board of Control, is not dependent on nor affected in any way by:

(a) Proceedings taken by the board for the acquisition, construction or completion of any project or any part thereof.

(b) Any contracts made by the board in connection with the acquisition, construction or completion of any project.

(c) The failure to complete any project for which bonds or notes are authorized to be issued.

90016. The board, with the approval of the State Board of Control, shall issue revenue bonds and revenue bond anticipation notes in its name and as its obligation, but no bond or note issued or sold pursuant to this article shall be or become a lien, charge or liability against the State of California or against the board or against the property or funds of either, except, in the case of revenue bonds, to the extent of the pledge of revenues or part of revenues of the project, as may be provided by the indenture pursuant to which revenue bonds are issued, and, in the case of notes, to the extent of the pledge of revenues of the project and proceeds of the sale of bonds, as may be provided in the resolution authorizing the issuance of the notes. Every such bond and note issued by the board shall contain a recital on the face thereof, stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability or obligation of the State of California.

90017. The board, with the approval of the State Board of Control, shall determine the time, form and manner of the issuance of revenue bonds and revenue bond anticipation notes.

90018. The board, with the approval of the State Board of Control, may enter into indentures providing for the aggregate principal amount, date or dates, maturities, interest rates, denominations, form, registration, transfer and interchange of any revenue bonds and coupons issued pursuant to this article, and the terms and conditions on which the same shall be executed, issued,

secured, sold, paid, redeemed, funded and refunded. Reference on the face of the bonds to such indenture by its date of adoption, or the apparent date on the face thereof, is sufficient to incorporate all of the provisions thereof and of this article into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this article, and is bound thereby.

90019. An indenture pursuant to which bonds are issued may, with the approval of the State Board of Control, include any and all such covenants and agreements on the part of the board as the board deems necessary or advisable for the better security of the bonds issued thereunder.

90020. An indenture may provide that payments of principal and interest of bonds shall be secured by all or by part of revenues.

90021. An indenture may include a clause relating to the bonds issued thereunder requiring the board to pay or cause to be paid punctually the principal of all such bonds and the interest thereon on the date or dates, or at the place or places, and in the manner mentioned in such bonds and in the coupons appertaining thereto in accordance with such indenture.

90022. An indenture may include a clause relating to the bonds issued thereunder, requiring the board to operate the project continuously, to the extent practicable under conditions as they may from time to time exist, in an efficient and economical manner.

90023. An indenture may include a clause relating to the bonds issued thereunder requiring the board to make all necessary repairs, renewals and replacements to any project, and to keep the project at all times in good repair, working order and condition.

90024. An indenture may include a clause relating to the bonds issued thereunder requiring the board to preserve and protect the security of the bonds and the rights of the holders thereof and to warrant and defend such rights.

90025. An indenture may include a clause relating to the bonds issued thereunder requiring the board to pay and discharge or cause to be paid and discharged all lawful claims for labor, materials and supplies or other charges which, if unpaid, might become a lien or charge upon the revenues, or any part thereof, of any project acquired, constructed or completed from the proceeds of the sale of the bonds, or upon any physical properties, or which might impair the security of the bonds.

90026. An indenture may include a clause relating to the bonds issued thereunder which limits, restricts, or prohibits any right, power or privilege of the board to mortgage or otherwise encumber, sell, lease or dispose of any improvements constructed from the proceeds of the bonds, or to enter into any lease or agreement which impairs or impedes the operation of a project, or any part thereof, necessary to secure adequate revenues or which otherwise impairs or impedes the rights of the holders of the bonds with respect to such revenues.

90027. An indenture may include a clause relating to the bonds issued thereunder requiring the board to fix, prescribe and collect rates, rentals or other charges in connection with the services and facilities furnished from the project acquired, constructed or purchased from part or all of the proceeds of the bonds, sufficient to pay the principal of and interest on the bonds as they become due and payable, together with such additional sums as may be required for any fund created by this article, for the further security of such bonds or as a depreciation charge or other charge in connection with such project.

90028. An indenture may include a clause relating to the bonds issued thereunder requiring the board to hold or cause to be held in trust the revenues or any part of revenues pledged to the payment of such bonds and the interest thereon, or to any reserve or other fund created by this article for the further protection of the bonds, and to apply such revenues or any part of revenues or cause them to be applied only as provided in the indenture.

90029. An indenture may include a clause defining the power of the board in applying the proceeds of the sale of any issue of bonds for the acquiring, constructing, or completing of any project or any part thereof.

90030. An indenture may include a clause limiting the power of the board to issue additional bonds for the purpose of acquiring, constructing or completing any project or any part thereof.

90031. An indenture may include a clause requiring, specifying or limiting the kind, amount and character of insurance to be maintained by the board on any project, or any part thereof, and the use and disposition of the proceeds of any such insurance thereafter collected.

90032. An indenture may include a clause providing the events of default and the terms and conditions upon which any or all of the bonds of the board then or thereafter issued may become or be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

90033. An indenture may include a clause designating the rights, limitations, powers and duties arising upon breach by the board of any of the covenants, conditions, or obligations contained in any indenture.

90034. An indenture may include a clause prescribing a procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the board, subject to the approval of the State Board of Control, and the vote or written assent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding. Such clause may provide for meetings of bondholders and for the manner in which the consent of the bondholders may be given. The clause shall specifically state the effect of such amendment or modification upon

the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom.

With respect to any clause providing for the modification or amendment of an indenture, the board, with the approval of the State Board of Control, may agree that bonds held by the State Treasurer, the United States or any instrumentality thereof, or the State of California or any political subdivision thereof (including every municipal corporation, district, public corporation, board or agency of any kind or class) shall not be counted as outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any such modification or amendment.

90035. An indenture may include a clause or clauses providing for such other acts and matters as may be necessary or convenient or desirable in order better to secure the bonds or to make the bonds more marketable.

90036. The State Treasurer shall act as trustee for the board and the holders of bonds issued hereunder, and the board may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders. The board may provide in the indenture for the deposit of all revenues received from the project with such trustee to be held in a separate account in the State College Dormitory Revenue Fund created by this article. The money in such fund shall be disbursed only as provided in the indenture.

90037. The board, with the approval of the State Board of Control, shall prescribe the duties and powers of any such trustee with respect to the issuance, authentication, sale and delivery of the bonds and the payment of principal and interest thereof, the redemption of the bonds, the registration and discharge from registration of the bonds, and the management of any sinking fund or other funds provided as security for the bonds.

90038. With the approval of the State Board of Control, the board may provide for one or several issues of bonds and may issue bonds in series or may divide any issue into one or more divisions and fix different maturities or dates of such bonds, different rates of interest, or prescribe different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms thereof shall in each case be provided for by the board, with the approval of the State Board of Control, at or prior to the issue thereof.

90039. Bonds may be issued as coupon bonds or as registered bonds. With the approval of the State Board of Control, the board may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the board may determine.

90040. Bonds shall bear interest at a rate of not to exceed 7 percent per annum, payable annually or semiannually or in part annually and in part semiannually.

90041. Notwithstanding the provisions of Sections 90013, 90040, and 90048, the rate of interest which bonds or notes may bear and the yield resulting to the purchaser thereof may exceed the maximum rates specified in said sections to the extent of any debt service grant applicable to such interest which the United States of America has agreed, pursuant to any federal statute, to pay with respect to the bonds or notes.

90042. Bonds may be callable upon such terms, conditions, and upon such notice as the board, with the approval of the State Board of Control, may determine, and upon the payment of such premium as may be fixed by the board, with the approval of the State Board of Control, in the proceedings for the issuance of the bonds. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the bond.

90043. The board, with the approval of the State Board of Control, may provide for the payment of the principal and interest of bonds at any place within or without the State of California, and in specified coin or currency of the United States.

90044. The board, with the approval of the State Board of Control, may provide for the execution and authentication of bonds and notes by the manual, lithographed or printed facsimile signature of officers of the board and, in the case of bonds, by additional authentication by the State Treasurer as trustee. If any of the officers whose signatures or countersignatures appear upon the notes, bonds or coupons cease to be officers before the delivery of the notes, bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the notes, bonds or coupons.

90045. Bonds shall bear dates prescribed by the board, with the approval of the State Board of Control. Bonds may be serial bonds or sinking fund bonds with such maturities as the board, with the approval of the State Board of Control, may determine. No bond by its terms shall mature in more than 50 years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

90046. Immediately after the adoption of a resolution by the board and its approval by the State Board of Control, directing the preparation of any bonds or notes authorized under this article, the State Treasurer shall prepare the requisite number of suitable bonds or notes of the denominations, and in accordance with the specifications contained in such resolution.

90047. When the bonds authorized to be issued under this article

shall be duly executed, they shall be sold by the State Treasurer, for cash, in such parcels and numbers as the said Treasurer shall be directed by the Governor of the state, under seal thereof, after a resolution requesting such sale shall have been adopted by the board and approved by the State Board of Control. Before offering any of said bonds for sale, the said Treasurer shall detach therefrom all coupons, if any, which have matured or will mature before the day fixed for such sale.

90048. Bonds and notes may be sold at either public or private sale. The board, with the approval of the State Board of Control, may fix terms and conditions for the sale or other disposition of any authorized issue of bonds or notes. The State Treasurer, when authorized by resolution of the board approved by the State Board of Control, may sell bonds and notes at less than their par or face value, but no bond or note may be sold at a price below the par or face value thereof which would result in a sale price yielding to the purchaser an average of more than 7 percent per annum, payable semiannually, according to standard tables of bond values.

90049. The board may provide for the security of bonds. The board may use and expend all or any part of any funds or proceeds of any property owned by it, whether received by gift, appropriation or otherwise, if not restricted as to the use of such funds or proceeds of property by the terms of any gift or trust or provision of law for the redemption of bonds issued pursuant to the provisions of this article and the payment of interest due thereon.

90050. All costs and expenses incident to the issuance and sale of notes may be paid out of the proceeds of the sale of the notes. All costs and expenses incident to the issuance and sales of bonds and all costs and expenses incident to the redemption of revenue bond anticipation notes retired with proceeds from the sale of the bonds may be paid out of the proceeds of the sale of the bonds. Interest on bonds may be paid out of the proceeds of the sale of the bonds during the actual construction of any project for the acquisition, construction or completion of which the bonds have been issued, and for a period of not to exceed two (2) years thereafter as provided for in the indenture.

90051. The board, with the approval of the State Board of Control, may provide that notes or bonds and the interest thereon shall be secured by all or by part of revenues of a project upon the basis of which the notes or bonds are issued or authorized to be issued, and shall constitute such lien upon the revenues of such project as may be provided for in such notes or in any indenture.

90052. Pending the actual issuance or delivery of revenue bonds, the board, with the approval of the State Board of Control, may issue temporary or interim bonds, certificates or receipts of any denomination whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

90053. The board, with the approval of the State Board of Control, may provide for the replacement of lost, destroyed or

mutilated notes, bonds, and coupons.

90054. Bonds and notes issued pursuant to the provisions of this article and the interest or income therefrom are exempt from all taxation in this state other than gift, inheritance and estate taxes.

90055. Notwithstanding any other provision of law, all notes and bonds hereafter sold and delivered pursuant to the provisions of this article are legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, and the state school funds, and may also be used as security for the deposit of public moneys in banks in this state. Such bonds are also legal investments for any public or private funds which may be invested in county, municipal or school district bonds, and may be deposited as security for the performance of any act whenever the bonds of any county, municipality or school district may be so deposited.

90056. The board, with the approval of the State Board of Control, may provide for the issuance, sale, or exchange of refunding bonds for the purpose of redeeming or retiring any revenue bonds issued under the provisions of this article. All provisions of this article applicable to the issuance of revenue bonds are applicable to the funding or refunding bonds and to the issuance, sale or exchange thereof.

90057. Funding or refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be funded or refunded thereby, and in addition for the payment of all expenses incident to the calling, retiring or paying of such outstanding bonds, and the issuance of such funding or refunding bonds. These expenses include the difference in amount between the par value of the funding or refunding bonds and any amount less than par for which the funding or refunding bonds are sold, any amount necessary to be made available for the payment of interest upon such funding or refunding bonds from the date of sale thereof to the date of payment of the bonds to be funded or refunded or to the date upon which the bonds to be funded or refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing thereon to the date of the call or retirement.

90058. All bonds and notes issued under the provisions of this article are negotiable instruments, except when registered in the name of a registered owner.

90059. Before issuing any bond or bonds pursuant to the provisions of this article, the board shall by resolution, approved by the State Board of Control, declare the purpose for which the proceeds of the bonds proposed to be issued shall be expended and shall specify the maximum amount of bonds to be issued or sold for such purpose, and bonds shall not be issued or sold for such purpose in an amount exceeding such specified maximum except with the consent of bondholders, pursuant to amendment or modification of

an indenture, as provided in Section 90034 of this article. Nothing in this section contained shall be construed to prevent the board, with the approval of the State Board of Control, from amending any such resolution prior to the issuance of bonds authorized thereby to increase or decrease the maximum amount of bonds to be issued or sold. The issuance of bonds for one or more projects may be included in a single resolution of authorization.

90060. The board has full charge of the acquisition, construction and completion of all projects authorized by them and may proceed with such work forthwith.

90061. The board may construct any project and acquire all property necessary therefor on such terms and conditions as it may deem advisable. When any part of the work is to be done or performed by any public body or by the United States jointly or in conjunction with the board, the portion of the cost thereof to be borne by the board may be turned over to the government of the United States or to any other public body to be expended by it in the acquisition, construction or completion of the project.

90062. Title to all property acquired by the board and the revenues and income therefrom is in the State of California. The title to any moneys, revenues, sinking funds, reserve funds and other funds created by this article and the income thereof pledged to the payment of the principal or interest or any bonds issued thereunder is subject to trusts declared in favor of the bondholders. All such property, and the income therefrom, are exempt from all taxation by the State of California or by any county, city and county, city, district, political subdivision or public corporation thereof.

90063. At all times the operation, maintenance, control, repair, construction, reconstruction, alteration and improvement of any project are vested in the board subject to such authorized leases as may be permitted by any indenture.

90064. The board may use for the payment of the costs of acquisition, construction or completion of any project any funds made available to the board by the State of California or any other funds provided by the board from any source, to be expended for the accomplishing of the purposes set forth in this article, together with the proceeds of revenue bonds and revenue bond anticipation notes issued and sold by the board.

90065. The board may insure against loss of revenues from any cause whatsoever and the proceeds of any such insurance shall be used solely for the payment of bonds and notes and the interest thereon.

90066. The board may insure against public liability or property damage. The board may, with the approval of the State Board of Control, provide in an indenture for the carrying of such or any other insurance in such amount and of such character as it shall determine, and for the payment of the premiums thereon.

90067. When authorized by resolution of the board, as provided in this article, the State Treasurer shall prepare and procure the

printing or engrossing of notes, bonds, coupons, indentures or other instruments and contracts or agreements of every kind required or convenient for or pertaining to the issuance or sale of notes or bonds.

90068. The board shall fix rents, charges and fees for all projects acquired, constructed or completed under the terms of this article for the use thereof by any persons utilizing the facilities thereof, subject to such contractual obligations as may be entered into by the board and the holders of notes and bonds issued under this article. The board is authorized to change rents, charges and fees from time to time, as conditions warrant. To the extent and in the manner provided in the indenture, all rents, charges and fees shall at all times be fixed to yield annual revenue equal to annual operating and maintenance expenses, including repairs and insurance costs and all redemption payments and interest charges and reserve fund requirements on revenue bonds at any time issued and outstanding hereunder, as the same become due.

90069. Rent, charges, and fees collected in error may be refunded by the board in accordance with regulations prescribed by the board. Refunds of rent, charges, and fees collected for facilities requested by students and not utilized by them may be made for good cause by the board in such amounts and under such conditions as may be prescribed by regulations adopted by the board.

90070. The board, with the approval of the State Board of Control, may include in an indenture such limitations as to competitive projects, both as to location and comparative rentals, as may be deemed necessary or desirable for the security of revenue bonds issued pursuant to this article.

90071. The board, with the approval of the State Board of Control, may also include in an indenture a covenant that no project acquired, constructed or completed from the proceeds of revenue bonds issued under the provisions of this article shall be used without charge therefor or any facilities thereof be furnished free of charge to any person.

90072. The holder of any bond or note issued pursuant to this article may by mandamus or other appropriate proceeding require and compel the performance of any of the duties imposed upon the board or upon any official or employee or assumed by any thereof, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of any project, or the collection, deposit, investment, application and disbursement of rents, rates, charges, fees and all other revenues derived from the operation and use of any project or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds and notes under this article. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds and notes issued pursuant to this article.

90073. The proceeds from the sale of all bonds and notes authorized under the provisions of this article, except those proceeds

used to redeem outstanding notes, shall be deposited forthwith by the State Treasurer, on order of the State Controller, in the State Treasury to the credit of a fund to be designated as the California State University and Colleges Dormitory Construction Fund, which fund is hereby created. The money in such construction fund shall be expended, pursuant to claims filed by the board with the State Controller, for the purposes authorized by this article, or as provided in the indenture or notes, and for such other purposes, subject to the restrictions provided by law, by the notes, or by the indenture, as may be authorized by resolution of the board approved by the State Board of Control. Moneys required to meet the costs of acquisition or construction and all expenses and costs incidental to the acquisition, construction, furnishing and equipping of any project authorized by this article shall be paid from the said construction fund as herein provided upon claim filed by the board and after audit by the State Controller in the manner provided by law and upon warrants drawn by the Controller.

90074. To the extent and in the manner provided in the indenture or in a resolution authorizing the issuance of notes, all revenues received from the operation of any project acquired or constructed by the board under the provisions of this article shall be transmitted by the board at least once in every calendar month, to the State Treasurer. On order of the State Controller, the said Treasurer shall deposit such revenues in the State Treasury to the credit of the California State University and Colleges Dormitory Revenue Fund, which fund is hereby created. Moneys in the California State University and Colleges Dormitory Revenue Fund shall be used to pay the costs of operation and maintenance of the projects authorized by this article, including refunds authorized by Section 90069, to provide the amounts required for interest and redemption of notes and bonds as provided in this article, and for any other purposes authorized by resolution of the board approved by the State Board of Control, subject to any restrictions provided by law, a resolution authorizing the issuance of notes, or the indenture.

90075. For the payment of the principal and interest of the notes and bonds authorized to be issued under this article, an interest and redemption fund in the State Treasury is hereby created, to be designated the California State University and Colleges Dormitory Interest and Redemption Fund. From the money deposited in the California State University and Colleges Dormitory Construction Fund, the State Treasurer, on order of the State Controller, shall transfer to the California State University and Colleges Dormitory Interest and Redemption Fund such sums as may be required to pay the interest as it becomes due on all notes and bonds sold and outstanding for the construction or acquisition of a particular project authorized under this article during the period of actual construction or acquisition thereof and during such period thereafter as may be provided in the indenture or authorized by resolution of the board approved by the State Board of Control. The State Treasurer, on

order of the State Controller, shall thereafter transfer from the California State University and Colleges Dormitory Revenue Fund to the California State University and Colleges Dormitory Interest and Redemption Fund such sums as may be required to pay the interest on said notes and bonds and redeem the principal thereof as such interest payments and note and bond redemptions fall due for all notes and bonds issued under the provisions of this article.

90076. Any balance remaining in any of the funds created by this article after payment of all costs, expenses, and charges authorized to be expended therefrom, may be allocated and used for such other purposes incidental to the acquisition, construction, furnishing, equipping, operation and maintenance of such projects authorized under the provisions of this article as the board, with the approval of the State Board of Control, may determine.

90077. Moneys in the California State University and Colleges Dormitory Construction Fund may be invested by the board, with the approval of the State Board of Control, subject only to such limitations as may be provided in any resolution authorizing the issuance of revenue bond anticipation notes or in any indenture providing for the issuance of revenue bonds. All securities or other investments made under the provisions of this article shall be held by the State Treasurer as custodian thereof. All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer, and, on order of the State Controller, shall be deposited in the State Treasury to the credit of the fund from which such interest or other earnings are derived.

90078. After all of the notes and revenue bonds shall have been fully paid and discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in the California State University and Colleges Dormitory Construction Fund shall, subject to the limitations and restrictions in any resolution authorizing the issuance of the notes or in any indenture providing for the issuance of the revenue bonds, remain available for the acquisition of sites for, and for the construction, equipping and furnishing of, buildings for the California State University and Colleges.

90079. All money in the funds created by the provisions of this article is hereby appropriated for expenditure in carrying out the purposes herein provided.

90080. The article shall be liberally construed to carry out the objects and purposes and the declared policy of the State of California as in this article set forth.

CHAPTER 9. STATE UNIVERSITY AND COLLEGES CONTRACT  
LAW

Article 1. General Provisions

90100. This chapter may be cited as the California State University and Colleges Contract Law.

90101. As used in this chapter:

(a) "Project" includes the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind which will exceed in cost a total of ten thousand dollars (\$10,000).

(b) "Trustees" means the Trustees of the California State University and Colleges.

(c) "Service contract" means any contract for services in connection with a project other than a project contract, and includes, but is not limited to, contracts for architectural, engineering, planning, testing, general studies, or feasibility services.

90102. Contracts for the purchase of supplies or materials, which are purchased through the Department of General Services, are not subject to this chapter, even though the seller is required to perform some incidental work or service in connection with the delivery of the material or supplies.

90103. Work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority, is not subject to this chapter, whether or not done under public supervision or paid for in whole or part out of public funds.

90104. The project shall be under the sole and direct control of the trustees, pursuant to the powers and responsibilities invested in them by Chapter 8 (commencing with Section 66600) of Part 40 of Division 5 of this title.

90105. Where the nature of the work in the opinion of the trustees is such that the application of all of the provisions of this chapter in connection therewith are not required, it may, with the approval of the Department of Finance, carry out the project pursuant to this section if the estimated cost does not exceed one hundred thousand dollars (\$100,000).

If the estimated total cost of any construction project or work carried out under this section exceeds five thousand dollars (\$5,000), the trustees shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. The trustees may carry out work in excess of five thousand dollars (\$5,000) under the provisions of this section by day labor if they deem that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state, but the amount of work performed by day labor under this section shall not exceed the sum of twenty thousand dollars (\$20,000).

90106. The trustees and the Department of General Services may enter into an agreement under which the Department of General

Services will carry out any of the functions of the trustees under this chapter, upon such terms as are mutually agreed upon.

90107. The trustees may enter into service contracts. Such contracts shall be subject only to Section 90220 and to such other provisions of this chapter, if any, as the trustees may from time to time designate as applicable.

## Article 2. Plans and Specifications

90120. Before entering into any contract for a project, the trustees, pursuant to the powers invested in them by Chapter 8 (commencing with Section 66600) of Part 40 of Division 5 of this title, shall cause to be prepared full, complete, and accurate plans and specifications and estimates of cost, giving such directions as will enable any competent mechanic or other builder to carry them out.

90121. The plans, specifications, and estimates of cost shall be approved by the trustees and the original draft or a certified copy filed permanently in the office of the trustees before further action is taken.

90122. Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to this chapter, except that it may be done by day's labor under the direction of the trustees, by contract upon informal bids, or by a combination thereof:

(a) In case of emergency due to an act of God, earthquake, flood, storm, fire, landslide, public disturbance, or vandalism which causes damage to a state-owned building, state-owned real property or any improvements thereon, for work and remedial measures which are required immediately and which are necessary to protect the public health, safety, and welfare.

(b) At any time after the approval of plans, specifications and estimates of cost, if the trustees deem the advertising or award of a contract, the acceptance of any bid, or the acceptance of any further bids after the rejection of all submitted bids, is not in the best interests of the state.

90123. Upon the approval of the trustees the authorized employees of the trustees may, when proceeding upon the basis of day's labor, let any subdivision or unit of the work by contract upon informal bids; but such work shall be let only to a holder of a valid state contractor's license unless such work is exempt from such licensing requirement by any other provision of law.

90124. Bids may be received and contracts awarded on a unit basis, that is, the bids compared upon the basis of estimates of the quantities of the work to be done.

90125. Except in unit basis contracts, contracts shall not be made exceeding in amount the estimates of costs approved by the trustees. Plans and specifications and estimates of costs including expense of advertising and inspection, shall not be approved by the trustees requiring a greater expenditure of money than is appropriated for the specific purpose in the law authorizing the expenditure.

90126. The trustees may receive bids for the construction of several public works projects at one campus of the California State University and Colleges as a single project. Where more than one appropriation has been made for the several projects united as a single project under the provisions of this section, payments for the single project shall be made from the separate appropriations on such proportional basis as may be determined by the trustees and approved by the Department of Finance.

### Article 3. Advertisement for Bids

90140. When it appears from the estimates of cost that the estimated contract price of any project will not exceed fifteen thousand dollars (\$15,000), the trustees may direct that public notice to bidders be given as follows:

(a) By publication for two consecutive insertions in a weekly trades paper of general circulation, published either in Los Angeles or San Francisco, devoted primarily to the dissemination of contract news among contracting firms; and

(b) Once a week for two consecutive weeks in a newspaper of general circulation in the county in which the project is located, or, if located in more than one county in such a newspaper in a county in which a major portion of the work is to be done.

90141. The notices shall state the time and place for the receiving and opening of sealed bids and describe in general terms the work to be done.

90142. When it appears that the estimated contract price will exceed fifteen thousand dollars (\$15,000), public notice to bidders shall be given by publication once a week for at least two consecutive weeks, or once a week for more than two consecutive weeks if such longer period of advertising is deemed necessary by the trustees, next preceding the day set for the receiving of bids:

(a) In two trade papers of general circulation, one published in Los Angeles and one in San Francisco, devoted primarily to the dissemination of contract and building news among contracting and building material supply firms; or

(b) In the discretion of the trustees, in one newspaper of general circulation published in the county in which the major portion of the project is located, and in one such trade paper published in the county group, as defined in Section 187 of the Streets and Highways Code, in which the work is to be done.

90143. The notices shall state the time and place for the receiving and opening of sealed bids and that the bids will be required for the entire project and for the performance of segregate designated parts of the entire project, when the trustees determines that segregation is advisable.

## Article 4. Bids and Bidders

90160. The trustees may, and on contracts the estimated cost of which exceeds fifty thousand dollars (\$50,000) the trustees shall, require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in performing public works. When completed, the questionnaire and financial statement shall be verified under oath by the bidder in the manner in which pleadings in civil actions are verified.

90161. The trustees shall adopt and apply a uniform system of rating bidders, on the basis of the standard questionnaires and financial statements, in respect to the size of the contracts upon which each bidder is qualified to bid.

90162. In all projects for road, street and bridge work where federal funds are involved and where a bidder is required to be and has been prequalified pursuant to Sections 90160 and 90161, no bid submitted or contract thereafter awarded shall be invalidated by the failure of the bidder or contractor to be properly licensed in accordance with the laws of this state, nor shall any such contractor be denied payment under any such contract because of such failure; provided, however, that the first payment for work or material under such contract shall not be made by the State Controller unless and until the Registrar of Contractors certifies to him that the records of the Contractors State License Board indicate that such contractor was or became properly licensed between the time of bid opening and the making of the certification. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by such laws, including but not limited to any appropriate disciplinary action by the Contractors State License Board, and the trustees shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement.

90163. The questionnaires and financial statements are not public records and are not open to public inspection.

90164. The trustees shall furnish to each bidder a standard proposal form, which, when filled out and executed may be submitted as his bid. Bids not presented on forms so furnished shall be disregarded. The trustees shall not furnish proposal forms to any person who is required to submit and has not submitted a questionnaire and financial statement for prequalification at least five days prior to the date fixed for publicly opening sealed bids and been prequalified for at least one day prior to that date.

90165. All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security: cash, a cashier's check, certified check, or a bidder's bond executed by an admitted surety insurer, made payable to the trustees. The security shall be in an amount equal to at least 10 percent of the amount bid. A bid shall not be considered unless one of the forms of bidder's

security is enclosed with it.

90166. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

90167. Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids only by written request for the withdrawal of the bid filed with the trustees. The request shall be executed by the bidder or his duly authorized representative. The withdrawal of a bid does not prejudice the right of the bidder to file a new bid.

This section does not authorize the withdrawal of any bid after the time fixed in the public notice for the opening of bids.

#### Article 5. Award of Contracts

90180. On the day named in the public notice the trustees shall publicly open the sealed bids and award the contracts to the lowest responsible bidders.

90181. If the successful bidder fails to execute the contract, his bidder's security shall be forfeited to the state. The cash or proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of cost, and publication of notice are paid.

90182. If the trustees deem it is for the best interest of the state, they may, on the refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder.

If the second lowest responsible bidder fails or refuses to execute the contract, the trustees may likewise award it to the third lowest responsible bidder.

On the failure or refusal of the second or third lowest bidder, to whom a contract is so awarded, to execute it, his bidder's security shall be likewise forfeited to the state.

90183. The failure of the successful bidder to furnish any bond required of him by law, within the time fixed for his execution of the contract, constitutes a failure to execute the contract.

90184. The bidder's security of the second and third lowest responsible bidders may be withheld until the contract has been finally executed. The cash, cashier's checks and certified checks submitted by all other unsuccessful bidders shall be returned to them within 10 days after the contract is awarded, and their bidders' bonds shall be of no further effect.

90185. If the trustees deem the acceptance of the lowest responsible bid or bids is not for the best interests of the state, they may reject all bids and proceed by day's labor or advertise for other bids in the manner required by this chapter.

## Article 6. Relief of Bidders

90200. A bidder shall not be relieved of his bid nor shall any change be made in his bid because of mistake, but he may bring an action against the trustees in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount forfeited, without interest or costs.

The bond of an admitted surety insurer shall be filed with the complaint, in such sum as the court may fix, but not less than five hundred dollars (\$500), conditioned that, if the plaintiff fails to recover judgment, he shall pay all costs incurred by the trustees in the suit, including a reasonable attorney's fee to be fixed by the court.

90201. The complaint shall be filed, and summons served on the trustees, or an appearance made, within 90 days after the opening of the bid; otherwise, the action shall be dismissed.

90202. The bidder shall establish to the satisfaction of the court that:

(a) A mistake was made.

(b) He gave the trustees written notice within five days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred.

(c) The mistake made the bid materially different than he intended it to be.

(d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site or the work, or in reading the plans or specifications.

90203. Other than the notice to the trustees, no claim is required to be filed before bringing the action.

90204. A bidder who claims a mistake or who forfeits his bid security shall be prohibited from participating in further bidding on the project on which the mistake was claimed or security forfeited.

90205. In all actions brought under the provisions of this article, all courts wherein such actions are or may hereafter be pending, shall give such actions preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined.

## Article 7. Contract Requirements

90220. Every contract awarded under this chapter shall be submitted to the Attorney General or the attorney appointed according to law and authorized to represent the trustees. Such a contract is not binding on the state until the appropriate attorney finds it to be in accordance with the requirements of this chapter, and endorses such finding thereon.

A certified copy of each contract shall be filed with the Controller, but the failure so to file does not invalidate it.

90221. Every contract shall provide for the filing of separate

performance and payment bonds by the contractor executed by an admitted surety insurer, subject to the approval of the trustees.

90222. Each bond shall be in a sum equal to at least one-half of the contract price, except as otherwise provided in Section 3248 of the Civil Code.

90223. The payment bond shall secure the payment of the claims of laborers, mechanics or materialmen employed on the work under the contract and shall contain all other provisions required by law.

90224. The performance bond shall guarantee the faithful performance of the contract by the contractor.

90225. Whenever the trustees have cause to believe that the surety has become insufficient, they may demand in writing of the contractor such further bonds or additional surety, not exceeding that originally required, as in their opinion is necessary, considering the extent of the work remaining to be done. Thereafter no payment shall be made upon such contract to the contractor or any assignee of the contractor until the further bonds or additional surety has been furnished.

90226. Every contract shall contain a provision in regard to the time when the whole or any specified portion of the work contemplated shall be completed, and shall provide that for each day completion is delayed beyond the specified time, the contractor shall forfeit and pay to the state a specified sum of money, to be deducted from any payments due or to become due to the contractor. A contract for a road project may also provide for the payment of extra compensation to the contractor, as a bonus for completion prior to the specified time, such provision, if used, to be included in the specifications and to clearly set forth the basis for such payment.

90227. Every contract shall provide that the trustees may make changes in the plans and specifications pursuant to this chapter.

#### Article 8. Modifications; Performance; Payment

90240. The trustees may increase or decrease quantities of work to be done under a unit basis contract during the progress of the work.

90241. The trustees may cause the insertion of provisions in any contract for the performance of such extra work and the furnishing of materials therefor by the contractor as the trustees require for the proper completion or construction of the whole work contemplated, if the bidders have equal opportunity of knowing the proposed terms for the extra work.

90242. The trustees may grant such extensions of time for completion as they deem for the best interests of the state.

90243. If the trustees deem that a contractor has failed to supply an adequate working force, or material of proper quality, or has failed in any other respect to prosecute the work with the diligence and force specified by the contract, the trustees may:

- (a) After written notice of at least five days to the contractor,

specifying the defaults to be remedied, provide any such labor or materials and deduct the cost from any money due or to become due to the contractor under the contract; or

(b) If the trustees consider that the failure is sufficient ground for such action, they may give written notice of at least five days to the contractor and the contractor's sureties, that if the defaults are not remedied the contractor's control over the work will be terminated.

90244. If the defaults are not remedied within the time specified in the notice, the contractor's control shall terminate as of the expiration of that time.

90245. Upon such termination, the trustees may take possession of and use all or any part of the contractor's materials, tools, equipment, and appliances upon the premises to complete the contract. Thereupon, the trustees may permit the surety to complete or cause the contract work to be completed, or they may direct that all or any part of the work be completed by day's labor or by employment of other contractors on informal contracts, or both.

90246. Such informal contracts may be awarded only after a proposal form has been prepared, a copy is served upon the contractor whose control has been terminated, and upon his surety, and three days allowed thereafter so that he may cause others to bid. Any person who is prequalified therefor under Article 4 (commencing with Section 90160) of this chapter may bid on informal contracts.

90247. The provisions of this chapter, except as to prequalifications, are not applicable to the award of informal contracts.

90248. If the control of a contractor is terminated or he abandons the work, and the work is performed by day's labor or informal contract as provided in Section 90245, he is not entitled to receive any portion of the amount to be paid under the contract until it is fully completed. After completion, if the unpaid balance exceeds the sum of the amount expended by the state in finishing the work, plus all damages sustained or to be sustained by the state, the excess not otherwise required by law to be retained shall be paid to the contractor, but if such sum exceeds the unpaid balance, the contractor and his surety are liable to the state for the excess. If the surety completes the contract work, as provided in Section 90245, such surety shall be subrogated to money due under the contract and to money which shall become due in the course of completion by the surety, to the extent provided by law.

90249. On the completion of the contract, the original contractor is entitled to the return of all his unused materials, and his equipment, tools, and appliances, except that he shall have no claim on account of usual and ordinary depreciation, loss, and wear and tear.

90250. The notices required by this article may be served on the contractor or on his agent having charge of the work, personally, or by registered mail addressed to the contractor or his agent, or, if

neither can be located or their addresses are unknown, by posting in a conspicuous place upon the premises of the project.

90251. Payments upon contracts shall be made as the trustees prescribe upon estimates made and approved by the trustees, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to or under the control of the state, and unused. The trustees shall withhold not less than 5 percent of the contract price until final completion and acceptance of the project. The Controller shall draw his warrants upon estimates so made and approved by the trustees and the Treasurer shall pay them.

90252. At the request and expense of the contractor, and with the approval of the trustees, any amount withheld pursuant to Section 90251 may be deposited with the State Treasurer as the escrow agent, who shall pay such moneys to the contractor upon the placing of securities eligible for the investment of state funds under Section 16430 of the Government Code or bank certificates of deposit into such escrow account by the contractor.

"Approval of the trustees," as used in this section, means that the trustees may, in their discretion, allow or deny the request of the contractor to avail itself of the provisions of this section and that the trustees may, in their discretion, allow the request of the contractor upon the satisfaction of conditions which may be specified by the trustees.

The contractor shall be beneficial owner of any securities in an escrow account pursuant to this section and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain as a minimum, the following provisions:

(a) The amount of securities to be deposited; such amount shall not be less than the amount which would otherwise be withheld pursuant to Section 90251;

(b) The terms and conditions of conversion to cash in case of the default of the contractor; and

(c) The termination of the escrow upon completion of the contract.

## Article 9. Offenses

90270. Any officer or employee of the trustees who corruptly performs any official act to the injury of the state, is guilty of a felony.

90271. Any contractor or his agent or employee who corruptly permits the violation of any contract awarded under this chapter to the injury of the state, is guilty of a felony.

90272. Any subcontractor or agent or employee of any contractor or subcontractor, who has knowledge of any work being done in violation of any contract under this chapter and does not immediately notify the trustees or the inspector or resident engineer

upon the project of the violation, is guilty of a felony.

90273. Such felonies are punishable by imprisonment in the state prison for not less than one nor more than five years.

90274. Such persons are also liable to the state for double the amount the state may have lost, or be liable to lose by reason of the acts made crimes by this article.

## CHAPTER 10. SPECIFIC PROVISIONS RELATING TO PARTICULAR CAMPUSES

### Article 1. California State Polytechnic University

90400. The California State Polytechnic University included within the California State University and Colleges is comprised of the two separate campuses or complexes of buildings, facilities, and land described as follows:

(a) The campus or complex situated within the County of San Luis Obispo.

(b) The campus or complex situated within the County of Los Angeles and within or near the City of Pomona and the City of San Dimas.

90401. The trustees shall have all power necessary to provide for the establishment of a separate California State Polytechnic University at the campus or complex situated in the County of Los Angeles, more particularly described in subdivision (b) of Section 90400, including the power to execute any necessary agreements and to receive, on behalf of the state, any property or interest in property which may be conveyed to the state in connection therewith or for any purposes of this section.

From and after the date upon which final action for the establishment of such separate university has been taken by the trustees, there shall be, within the California State University and Colleges, two separate California state polytechnic universities, comprised of the respective campuses or complexes described in Section 90400. The provisions of Section 89067, the provisions of Sections 90404 to 90406, inclusive, and any provisions of law limited in applicability specifically to the California State Polytechnic University, unless otherwise therein specified, shall be deemed applicable to either or both of such California state polytechnic universities.

90402. It is the intent and purpose of the Legislature, in authorizing the establishment of the separate California State Polytechnic University in the County of Los Angeles at the campus or complex described in subdivision (b) of Section 90400, that the educational program there provided continue to be conducted in accordance with the essential aims and policies expressed in Section 90404, and in that certain grant deed dated November 22, 1949, as amended or modified by subsequent agreements and conveyances, whereby the W. K. Kellogg Foundation, a Michigan corporation, has

granted to the State of California, for the use and benefit of the California State Polytechnic University, certain real property situated in the County of Los Angeles, which will form a part of such separate California State Polytechnic University.

90403. Other sections to the contrary notwithstanding, tuition fees adequate to meet the cost of maintaining limited residence programs which are established by the trustees in the area of military installations and which are designed primarily for the benefit of military and nonmilitary personnel at such installations, shall be required of, and collected from resident and nonresident students enrolled in such programs, under and pursuant to rules and regulations prescribed by the trustees. Students whose enrollment is entirely in such programs shall not be required to pay nonresident tuition established pursuant to Section 89705.

The trustees shall not establish a limited residence program in the area of a military installation which is designed primarily for the benefit of military and nonmilitary personnel at such installation without the prior approval of the Coordinating Council for Higher Education.

The enactment of this section is intended to prohibit, and the provisions of this section shall be construed as prohibiting, the state from providing capital outlay expenditures for any limited residence program in the area of a military installation which is designed primarily for the benefit of military and nonmilitary personnel at such installation.

The effect of this section is limited to the classes provided by California Polytechnic State University at Vandenberg Air Force Base.

If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

90404. In addition to the functions provided by Section 66608 the California State Polytechnic University shall be authorized to emphasize the applied fields of agriculture, engineering, business, home economics and other occupational and professional fields. This article shall be liberally construed.

90405. The California State Polytechnic University Agricultural Project Revolving Fund in the sum of ten thousand dollars (\$10,000) is continued in existence. The fund shall be used for loans to needy and deserving students for the purchase of livestock, poultry, seed, feed, and such other materials as are necessary for the conducting of projects by students under supervision of instructors in the school. All sums borrowed shall be returned to the revolving fund as soon as projects are completed.

90406. The trustees, with the consent of the Director of Finance, may sell or trade such of the property belonging to the state and used for the California State Polytechnic University as may in the

judgment of the trustees be disposed of advantageously. The proceeds of the sale shall be used for the purchase of such other land for the use of the California State Polytechnic University as the trustees and the Director of Finance may deem necessary.

#### Article 2. California State University, Fresno

90420. Notwithstanding any other provision of law, the Director of General Services, with the approval of the State Public Works Board and the Trustees of the California State University and Colleges, may rent, lease, sell, trade, or otherwise dispose of the property belonging to the state and used as California State University, Fresno, Ratcliffe Stadium, located on Blackstone Avenue between University Avenue and Cambridge Avenue in the City of Fresno, California.

All proceeds derived from such rental, lease, sale, trade, or other disposition shall be used for the acquisition, construction, improvement, or leasing of an athletic stadium for California State University, Fresno, and are hereby appropriated for the purposes described herein without regard to fiscal year.

#### Article 3. California State University, Northridge

90430. All property, both real and personal, of the San Fernando campus of the Los Angeles State College of Applied Arts and Sciences is hereby assigned to the state university or college located in the San Fernando Valley.

90431. Each employee of the Los Angeles State College of Applied Arts and Sciences who is transferred to the state university or college located in the San Fernando Valley on or before the beginning date of the academic school year 1958–59 shall be entitled to retain all sickness and injury, sabbatical and other leave rights and all seniority and tenure rights accumulated as an employee of the Los Angeles State College of Applied Arts and Sciences as fully as though there had been no change in the name or operation of the college.

#### Article 4. San Francisco State University

90440. Notwithstanding any other provision of law, the trustees may rent, lease, sell, or trade the property belonging to the state and used for the San Francisco State University Downtown Center, located at 540 Powell Street, San Francisco, California. All proceeds derived from such renting, leasing, sale, or trade shall be used for the acquisition, construction, improvement, or leasing of a downtown center for the California State University, San Francisco.

## CHAPTER 11. MISCELLANEOUS

## Article 1. State University and College Publications

90500. All printing and binding required by the trustees shall be performed by the Department of General Services in the form and manner, and at the prices of other state printing, and be paid for in like manner, except that the trustees may fix the price for the sale of any bulletin or publication of the trustees or any state university or college, and may specify the class of persons or institutions that may receive copies of any publication free of charge.

Any county, or any school district, or community college district in this state may purchase from the trustees any publications of the trustees or any state university or college.

## Article 2. Football Equipment

90510. The president of each campus of the California State University and Colleges shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of his campus of the California State University and Colleges pursuant to Sections 90511 and 90512.

90511. All football equipment actually worn by pupils shall be cleaned and sterilized at least once a year. Football equipment used in spring training shall be cleaned and sterilized before it is used in the succeeding fall term.

90512. Any contract with a dealer or craftsman for the repair of football equipment belonging to the district or the state college shall specifically state or describe the materials to be used by the dealer or craftsman in repairing such equipment.

## DIVISION 9. UNIVERSITY OF CALIFORNIA

## PART 57. UNIVERSITY OF CALIFORNIA

## CHAPTER 1. GENERAL PROVISIONS

## Article 1. Name of the University

92000. The name "University of California" is the property of the state. No person shall, without the permission of the Regents of the University of California, use this name, or any abbreviation of it or any name of which these words are a part in any of the following ways:

- (1) To designate any business, social, political, religious, or other organization, including but not limited to, any corporation, firm, partnership, association, group, activity or enterprise; or
- (2) To imply, indicate or otherwise suggest that any such organization is connected or affiliated with, or is endorsed, favored

or supported by, or is opposed by the University of California; or

(3) To display, advertise, or announce this name publicly at or in connection with any meeting, assembly, or demonstration, or any propaganda, advertising or promotional activity of any kind which has for its purpose or any part of its purpose the support, endorsement, advancement, opposition or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity or program.

Provided, that nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement of his present or former relationship or connection with, his employment by, or his enrollment in, the University of California in the course of stating his experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional or other employment whatsoever.

Every person violating the provisions of this section is guilty of a misdemeanor.

## Article 2. Tuition Fees

92010. An admission fee and rate of tuition fixed by the board of regents shall be required of each student, except as otherwise provided.

## Article 3. Meetings of the Regents

92030. All meetings of the Regents of the University of California shall, except as otherwise provided in this section, be open to the public. The corporation shall establish the time and place for holding regular meetings, but may, as occasioned by necessity, hold special meetings. Public notice shall be given for such meetings. Such notice shall be given by notifying any newspaper of general circulation or any television or radio station, and shall be delivered personally or by mail so that the notice may be published or broadcast at least 24 hours before the time of such meeting.

The Regents of the University of California may also hold executive sessions when it meets to consider or discuss: (a) matters relating to or affecting the national security; (b) the conferring of honorary degrees or other honors or commemorations; (c) those matters involving gifts, devises and bequests; (d) matters involving purchase and sale of investments for endowment and pension funds; (e) matters involving litigation when discussion in open session concerning such matters would adversely affect or be detrimental to the public interest; (f) matters involving acquisition and disposition of property; (g) matters relating to the appointment, employment, performance, compensation, or dismissal of officers and employees, excluding individual regents other than the president of the university; and (h) matters relating to complaints or charges brought

against officers or employees of the university, excluding individual regents other than the president of the university unless such officer or employee requests a public hearing. There also may be excluded from any such public or private meeting during the examination of a witness, any or all other witnesses in the matter being investigated.

#### Article 4. Condemnation of Property by the Regents

92040. The Regents of the University of California may acquire by eminent domain any property necessary to carry out any of the powers or functions of the University of California.

### CHAPTER 2. FISCAL TREASURY

#### Article 1. Withdrawal From the State Treasury

92100. Any sum of money specifically appropriated to, or for the use of, or expenditure by, the Regents of the University of California, other than money appropriated by a state budget act for the general support of the University of California, may be withdrawn at any time in its entirety from the State Treasury, at the direction of the Regents of the University of California, upon a warrant payable to the treasurer of the Regents of the University of California.

92101. The Regents of the University of California shall submit reports to the State Public Works Board of any allocations made by the Regents of the University of California pursuant to the provisions of this article.

#### Article 2. Transfer of Land Acquired by Tax Sales to the University

92110. Whenever the state is the owner of any property sold for taxes and the deed to the state has been filed with the Controller, and there appears of record a mortgage upon the property to the Regents of the University of California, and the mortgage and the debt secured by the mortgage have not been both paid in full and satisfied of record, the Controller, upon receiving proof, by affidavit of the president and secretary, or acting secretary or of the treasurer of the regents, that the debt secured by the mortgage has not been fully paid, shall direct the tax collector of the county or city and county in which the lands are situated, to execute a deed of the lands in the name of the state to the Regents of the University of California.

92111. The tax collector shall thereupon publish a notice once a week for at least three successive weeks in some newspaper published in the county or city and county in which the lands are situated, or if there is no newspaper published therein, then the tax collector shall post a notice in three conspicuous places in the county or city and county at least three weeks before the day named in the notice.

92112. The notice shall state that on or after a day mentioned, which shall be not less than four weeks, and not more than eight weeks after the first publication or posting of the notice, the tax collector will execute and deliver to the Regents of the University of California a deed to the property, and shall describe the property and shall state that the deed will be made because of a sale of the property to the state for delinquent taxes, and because the Regents of the University of California are interested in the property. No other matters need be contained in the notice. One or more pieces of land may be described in the affidavit, notice, deed, and report provided for in this article.

92113. Unless prior to the day mentioned in the notice, there is paid to the tax collector (a) the full amount for which the property was sold to the state, together with all interest and penalties thereon and all expenses and costs connected therewith, and (b) all subsequent state and county taxes not theretofore paid in full, and all interest and penalties thereon, and all costs and expenses connected therewith, and also (c) the expense of publishing or posting the notice, as the case may be, the tax collector shall on the day, or within 10 days thereafter, execute, acknowledge, and deliver a deed to the regents without any payment, charge, or fee therefor, and shall within five days thereafter report in writing to the Controller the fact of the execution of the deed.

92114. The expense of the publication and posting shall be paid by the Regents of the University of California, unless the expense is paid to the tax collector prior to the day mentioned in the notice.

92115. If the notice describes two or more pieces of land assessed separately and sold separately to the state, and if all the payments are made within the time prescribed in respect to any one of the pieces separately assessed and sold, the piece paid upon shall not be included in the deed, and the fact of the payment and the amount paid shall be stated in the report to the Controller.

92116. The deed shall transfer, grant, convey, and confirm to the Regents of the University of California the entire title to the lands, free and clear of all claims and incumbrances whatsoever. Nothing contained in this article shall be held to interfere with the right of the regents to enforce the mortgage or the payment of the debt secured thereby, or to procure a decree of foreclosure and a sale under the decree of all or any of the property described in the mortgage.

92117. The deed shall recite the facts provided in this article as authorizing its execution and is prima facie evidence of the facts and of all matters therein recited and of the ownership of the lands by the regents.

92118. The deed may be recorded in the office of the county recorder of the county or city and county in which the lands are situated, and upon the expiration of two years after it has been recorded, shall, except as against parties deriving title through a sale and purchase under decree of foreclosure of the mortgage, be

conclusive evidence that the complete fee simple title to the property therein described vested at the date of the deed in the Regents of the University of California, free and clear of all claims, liens, charges, and incumbrances whatsoever.

92119. In any action commenced against the regents before the expiration of two years to question the title of the regents to the property, the deed is prima facie evidence only.

92120. While any mortgage to the regents appears of record and not satisfied of record, no lands which have been sold to the state for taxes and the deed to which has been filed with the Controller, shall be sold or disposed of, except as provided in this article.

### Article 3. Insurance

92130. All property of the University of California held in fee or otherwise for purposes of income may be insured against damage or loss.

### Article 4. Federal Funds for Education in Agriculture and Mechanical Arts

92140. The state assents to the provisions of an act passed by Congress, entitled "An act to apply a portion of the proceeds of the Public Lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress, approved July second, Eighteen Hundred and Sixty-two," and approved August 30, 1890.

92141. The state assents to the provisions of an act passed by Congress known as the Smith-Lever Act, and entitled, "An act to provide for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States Department of Agriculture," approved May 8, 1914.

The Regents of the University of California are authorized to receive the grants of money appropriated under the act of Congress and to organize and conduct agricultural extension work in accordance with the terms and conditions expressed in the act.

92142. The state assents to the provisions of an act passed by Congress, entitled "An act to authorize a more complete endowment of agricultural experiment stations and for other purposes, approved February 24, 1925."

The Regents of the University of California are authorized to receive grants of money authorized by the act for the benefit of the University of California Agricultural Experiment Station and to use the money in accordance with the terms and conditions expressed in the act of Congress.

92143. The state assents to the provisions of an act passed by

Congress known as the Capper-Ketcham Act and entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several States receiving the benefits of the act, entitled 'An act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanical arts,' approved July 2, 1862, and all acts supplementary thereto, and the United States Department of Agriculture," and approved May 22, 1928.

The Regents of the University of California are authorized to receive the grant of money appropriated under the act of Congress, and to organize and conduct extension work in accordance with the terms and conditions expressed in the act.

92144. The state assents to the provisions of an act, passed by Congress and entitled "An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of co-operative agricultural extension work and the more complete endowment and support of land-grant colleges," approved June 29, 1935, Public Law No. 182—74th Congress.

The Regents of the University of California are authorized to receive all grants of money appropriated under the act of Congress, and to apply, use, and expend the grants of money for the purposes and in accordance with the terms, conditions, and requirements set forth in the act.

### CHAPTER 3. SPECIAL COLLEGES

#### Article 1. Hastings College of the Law

92200. The law college founded and established by S. C. Hastings shall forever be known and designated as the Hastings College of the Law.

92201. The college is affiliated with the University of California, and is the law department thereof.

92202. The college shall afford facilities for the acquisition of legal learning in all branches of the law. To this end it shall establish a curriculum of studies and shall matriculate students who reside at the University of California or elsewhere in the state.

92203. The faculty of the University of California shall grant, and the president shall sign and issue, diplomas to the students of the college.

92204. The business of the college, which includes the power to incur indebtedness, shall be managed by the board of directors. Five directors constitute a quorum for the transaction of all business. The directors shall serve without compensation.

92205. The Chief Justice of California is president of the board of directors.

92206. Vacancies in the board of directors shall be filled by the board.

92207. The officers of the college are a dean, a registrar, and eight

directors. One of the directors shall always be an heir or representative of S. C. Hastings. The dean and registrar shall be appointed by, and may be removed by the board of directors.

92208. The acting officers of the college shall be appointed and may be removed by the directors.

92209. The dean of the college is ex officio a member of the faculty of the University of California.

92210. Professorships may be established in the name of any founder who pays to the directors the sum of thirty thousand dollars (\$30,000).

92211. The sum of 7 percent per annum upon one hundred thousand dollars (\$100,000) shall be appropriated annually by the state and shall be paid in semiannual payments to the directors of the college.

92212. If the state fails to pay to the directors of the college the sum of seven thousand dollars (\$7,000) annually, pursuant to Section 92211, or if the college ceases to exist, the state shall pay to the heirs or legal representatives of S. C. Hastings, the sum of one hundred thousand dollars (\$100,000), and all unexpended accumulated interest, unless the failure is caused by mistake or accident, or the omission of the Legislature to make the appropriation at any one session.

92213. All courses by the college at Sacramento shall be deemed to be given at the site of the college in San Francisco.

92214. The Director of General Services shall transfer the property located at 55 and 75 Hyde Street in the City and County of San Francisco to the University of California to be used for the benefit of the Hastings College of the Law for school purposes.

The university shall have the power to sell or lease the property to a nonprofit corporation in order to provide housing facilities for the students, faculty, and employees of the college.

If such property is sold, it shall be sold for its fair market value, with such valuation approved by the Department of Finance, and the proceeds of the sale shall be deposited in the General Fund. If such property is leased, the proceeds of the lease shall be deposited in the General Fund.

## Article 2. California College of Medicine

92230. The existing institution known as the California College of Medicine, located in the City of Los Angeles, is affiliated with the University of California pursuant to that certain agreement of affiliation dated March 31, 1965, between the Regents of the University of California and the California College of Medicine.

92231. The college shall afford facilities for the acquisition of medical learning in all fields of medicine.

92232. The college shall be administered in accordance with the provisions of said agreement of affiliation.

## CHAPTER 4. CHILD DEVELOPMENT CENTERS

92300. The Regents of the University of California and any other public or private nonprofit agency may contract with the Department of Education to establish and maintain a child development center on or near each campus of the university pursuant to the provisions of Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.

Such operating agencies may accept student fees, parent fees, and private funds to operate campus child development centers and may be reimbursed for eligible costs pursuant to Sections 8209 and 8380.

92301. Nothing in this chapter shall be construed to permit the regents to expend state funds appropriated for support of the University of California for the direct operating costs of campus child development centers.

92302. Notwithstanding any other provision of law, children under two years of age whose parent or parents are students may attend child development centers consistent with the priorities established within this division.

92303. Children of students of that particular campus shall have first priority for attendance at a campus child development center.

Each campus child development center maintained pursuant to Section 92300 shall have an advisory council composed of representatives of the parent-users and persons from fields related to the well-being of children.

Student families, as defined in Section 8250.1, whose gross monthly income falls within the fee schedule established pursuant to Section 8249 shall pay fees according to the fee schedule.

Highest priority shall be given to student families with the greatest income deficit, and lowest priority to student families with the greatest income.

For the purposes of assigning eligibility priority, applicant student families shall be grouped according to the amount of their income in one-hundred-dollar (\$100) monthly increments. All student families within a particular income range shall be treated as if their incomes were the same, and priority for eligibility within each particular income range shall be assigned on the following basis:

(1) Single-parent student families.

(2) Two-parent families, where both parents are students or where one parent is a student and the other is working.

Student families who are recipients of public assistance shall be subject to the same assignment of priority as other student families whose incomes fall in the same income range.

CHAPTER 5. THE UNIVERSITY OF CALIFORNIA REVENUE BOND  
ACT OF 1947

Article 1. General Provisions

92400. This chapter may be cited as "the University of California Dormitory Revenue Bond Act of 1947."

92401. Wherever used or referred to in this chapter, or in any indenture entered into pursuant to this chapter, the definitions set forth in this article govern the construction of this chapter, unless a different meaning appears from the context.

92402. "Bonds" or "revenue bonds" means the written evidence of any obligation issued by the regents, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this chapter, in order to obtain funds with which to carry out the purposes of this chapter, irrespective of the form of such obligation.

92403. "Holder of bonds" or "bondholder" or any similar term means any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any such outstanding revenue bond or bond which shall at the time be registered other than to bearer.

92404. "Indenture" means an agreement entered into by the regents pursuant to which revenue bonds are issued regardless of whether such agreement is expressed in the form of a resolution of the regents or by other instrument.

92405. "Person" includes any individual, firm, corporation, association, copartnership, trust, business trust, or receiver or trustee or conservator for any individual or any such entity. It does not, however, include the state or any public corporation, political subdivision, city, county, district, or any agency of any such entity or of the state.

92406. "Project" means any one or more dormitories, other housing facilities, boarding facilities, student union facilities, vehicle parking facilities, or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated, or authorized to be acquired, constructed, furnished, equipped, and operated, by the regents for use by students, faculty members, or employees of the University of California, or a combination of such facilities, which may include facilities already completed and facilities authorized for future completion, designated by the regents as a project in providing for the issuance of revenue bonds. The term "project" also includes any one or more hospitals, clinics, medical and nursing facilities, and related facilities, including professional office buildings, parking facilities, and other facilities which the regents may deem necessary or convenient for the operation of a hospital or medical center, or incidental to a hospital or medical center, designated by the regents as a project in providing for the issuance of revenue bonds.

92407. "Regents" means the existing corporation known as "the

Regents of the University of California," as such corporation is constituted by the provisions of Section 9 of Article IX of the Constitution.

92408. "Revenues" means and includes any and all fees, rates, rentals, and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the regents from the operation of a project or arising from a project, including any such revenue as may have been or may be impounded or deposited in any sinking fund, redemption or reserve fund, or other fund created for the security of revenue bonds or for the purpose of providing for the payment of revenue bonds or the interest on revenue bonds.

92409. "University of California" means the public trust created by Section 9 of Article IX of the Constitution, and each and all of the campuses of the university within the state.

92410. The provisions of this chapter shall be liberally construed to carry out the objectives and purposes and the declared policy of the state expressed in this chapter.

## Article 2. Powers of Regents

92430. In addition to, and in amplification of, all other powers conferred upon the regents by the Constitution or by any statute of this state, the regents shall have all of the powers set forth in this article.

92431. The regents may acquire by grant, purchase, gift, devise, lease, or by the exercise of the right of eminent domain, and may hold, use, sell, lease, or dispose of any real or personal property necessary for the full exercise or convenient or useful for the carrying on of any of its powers pursuant to this chapter.

92432. The regents may construct, own, operate, and control any project.

92433. The regents may fix rates, rents, or other charges for the use of any facilities acquired, constructed, equipped, furnished, operated, or maintained by the regents, or for services rendered in connection with such facilities, and may alter, change, or modify such rates, rents, or other charges at its pleasure, subject to any contractual obligation which may be entered into by the regents with respect to the fixing of such rates, rents, or charges.

92434. The regents may enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any contract or agreement with the holders of any bonds of the regents.

92435. The regents may at any time and from time to time issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping, or furnishing any project, or of refinancing any project, or for any combination of such purposes, which bonds may be secured as provided in this chapter.

92436. The regents may contract with any department or agency

of the United States or of this state upon such terms and conditions as the regents find are for the best interests of the university.

92437. The regents may make contracts, leases, and agreements with any person or public corporation, political subdivision, city, county, district, or any agency of any person or such entity and may generally perform all acts necessary for the full exercise of the powers vested in the regents.

92438. The regents may sell, lease, convey, or otherwise dispose of any of its rights, interest, or properties, subject to any contractual obligation which may be entered into by the regents with respect to the issuance of revenue bonds.

92439. The regents may exercise the right of eminent domain for the condemnation of private property, or of any right or interest in private property.

92440. The regents may adopt such rules and regulations as may be necessary to enable the regents to exercise the powers and to perform the duties conferred or imposed upon the regents by this chapter.

92441. The regents have full charge of the acquisition, construction, and completion of all projects authorized by the regents and may proceed with such work forthwith.

92442. The regents may construct any project and acquire all property necessary for a project in such manner and at such location and on such terms and conditions as the regents deem advisable. A project may, but need not, be constructed or acquired on any campus and may be constructed or acquired at any location deemed by the regents advisable for the accomplishment of the purposes of this chapter.

92443. Title to all property acquired by the regents, and the revenues and income from such property, is in the regents. The title to any moneys, revenues, sinking funds, reserve funds, and other funds of the regents and the income from such moneys, revenues, and funds pledged to the payment of the principal or interest or any bonds issued thereunder is subject to trusts declared in favor of the bondholders. All such property, including such property and facilities belonging to the college affiliated with the University of California pursuant to Section 92201, and the income from such property are exempt from all taxation by the state or by any county, city and county, city, district, political subdivision, or public corporation of any such entity. The management, operation, and control of all improvements acquired, constructed, or completed by the regents are vested in the regents.

92444. At all times the operation, maintenance, control, repair, construction, reconstruction, alteration, and improvement of any project are vested in the regents.

92445. The regents may use for the payment of the costs of acquisition, construction, or completion of any project any funds made available to the regents by the state or any other funds provided by the regents from any source, to be expended for the

accomplishing of the purposes set forth in this chapter, together with the proceeds of revenue bonds issued and sold by the regents.

92446. The regents may insure against loss of revenues from any cause whatsoever and the proceeds of any such insurance shall be used solely for the payment of bonds and the interest on the bonds.

92447. The regents may insure against public liability or property damage and against loss by fire or other hazards. The regents may provide in an indenture for the carrying of such insurance, or any other insurance, in such amount and of such character as it shall determine, and for the payment of the premiums on such insurance.

92448. The regents may authorize any officer or officers of the regents to prepare and procure the printing or engrossing of bonds, coupons, indentures, or other instruments and contracts or agreements of every kind required or convenient for, or pertaining to, the issuance or sale of bonds.

92449. The regents shall fix rents, charges, and fees for all projects acquired, constructed, or completed under the terms of this chapter for the use of such projects by any persons utilizing the facilities of such projects, subject to such contractual obligations as may be entered into by the regents and the holders of bonds issued pursuant to this chapter. The regents may change rents, charges, and fees from time to time, as conditions warrant. All rents, charges, and fees shall at all times be fixed to yield annual revenue equal to annual operating and maintenance expenses, including repairs and insurance costs and all redemption payments and interest charges and reserve fund requirements on revenue bonds at any time issued and outstanding pursuant to this chapter, as they become due.

92450. Nothing in this article or elsewhere in this chapter shall be construed directly or by implication to be in any way in derogation of, or in limitation of, powers conferred upon, or existing in, the regents by virtue of provisions of the Constitution or statutes of this state.

### Article 3. Revenue Bonds

92470. The regents shall issue revenue bonds in the name of the regents and as obligations of the regents, but neither the principal of, nor interest on, any bond issued or sold pursuant to this chapter shall be or become a lien, charge, or liability against this state or against the regents or against the property or funds of either, except to the extent of the pledge of revenues or part of revenues of the project, as may be provided by the indenture pursuant to which revenue bonds are issued, and every such bond issued by the regents shall contain a recital on its face, substantially as follows: "This bond is not a lien, charge, or liability, as to either principal or interest, against the State of California or against the Regents of the University of California or against the property or funds of either, except to the extent of the pledge of revenues or part of revenues, as provided by the indenture pursuant to which it is issued."

92471. The regents shall determine the time, form, and manner of the issuance of revenue bonds.

92472. The validity of the authorization and issuance of any revenue bonds by the regents is not dependent on nor affected in any way by any of the following:

(a) Proceedings taken by the regents for the acquisition, construction, or completion of any project or any part of any project.

(b) Any contracts made by the regents in connection with the acquisition, construction, or completion of any project.

(c) The failure to complete any project for which bonds are authorized to be issued.

92473. Before issuing any bond or bonds pursuant to this chapter, the regents shall by resolution declare the purpose for which the proceeds of the bonds proposed to be issued shall be expended and shall specify the maximum amount of bonds to be issued or sold for such purpose. Bonds shall not be issued or sold for such purpose in an amount exceeding the maximum specified in such resolution except with the consent of bondholders, pursuant to amendment or modification of an indenture, as provided in Sections 92528 and 92529. Nothing in this section shall be construed to prevent the regents from amending any such resolution prior to the issuance of bonds authorized thereby to increase or decrease the maximum amount of bonds to be issued or sold. The issuance of bonds for one or more projects may be included in a single resolution of authorization.

92474. The regents may provide for one or several issues of bonds and may issue bonds in series or may divide any issue into one or more divisions and fix different maturities or dates of such bonds, different rates of interest, or prescribe different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms of such bonds shall in each case be provided for by the regents, at or prior to the issue of the bonds.

92475. Bonds may be issued as coupon bonds or as registered bonds. The regents may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the regents may determine.

92476. Bonds shall bear interest at a rate of not to exceed 8 percent per annum, payable annually or semiannually, or in part annually and in part semiannually.

92477. Bonds may be callable upon such terms, conditions, and upon such notice as the regents may determine, and upon the payment of such premium as may be fixed by the regents in the proceedings for the issuance of the bonds. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the bond.

92478. The regents may provide for the payment of the principal and interest of bonds at any place within or without the state, and in specified coin or currency of the United States.

92479. The regents may provide for the execution and authentication of bonds by the manual, lithographed, or printed facsimile signature of officers of the regents and by additional authentication by a trustee or fiscal agent appointed by the regents. If any of the officers whose signatures or countersignatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

92480. Bonds shall bear dates prescribed by the regents. Bonds may be serial bonds or sinking fund bonds with such maturities as the regents may determine. No bond by its terms shall mature in more than 50 years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date authorized in this section shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

92481. Bonds may be sold at either public or private sale. The regents may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The regents may sell bonds at less than their par or face value, but no bond may be sold at a price below the par or face value of the bond which would result in a sale price yielding to the purchaser an average of more than 8 percent per annum, payable semiannually, according to standard tables of bond values.

92482. The regents may provide for the security of bonds. The regents may use and expend all or any part of any funds or proceeds of any property owned by it, whether received by gift, appropriation or otherwise, if not restricted as to the use of such funds or proceeds of property by the terms of any gift or trust or provision of law, for the redemption of bonds issued pursuant to this chapter and the payment of interest due on the bonds.

92483. All costs and expenses incident to the issuance and sale of bonds may be paid out of the proceeds of the sale of the bonds. Interest on bonds may be paid out of the proceeds of the sale of the bonds during the actual construction of any project for the acquisition, construction, or completion of which the bonds have been issued, and for a period of not to exceed two years after the completion of the actual construction of the project as provided for in the indenture.

92484. The regents may provide that the bonds and the interest on the bonds shall be secured by all or by part of revenues of a project upon the basis of which revenue bonds are issued or authorized to be issued, and shall constitute such lien upon the revenues of such project as may be provided for in the indenture.

92485. Pending the actual issuance or delivery of revenue bonds, the regents may issue temporary or interim bonds, certificates, or receipts of any denominations whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

92486. The regents may provide for the replacement of lost, destroyed, or mutilated bonds, or coupons.

92487. Bonds issued pursuant to this chapter and the interest or income from such bonds, are exempt from all taxation in this state other than gift, inheritance, and estate taxes.

92488. The regents may designate a bank or trust company, qualified to do business in this state, as a trustee for the regents and the holders of bonds issued pursuant to this chapter, and may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage of the bonds, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.

92489. The regents may fix and determine the conditions upon which any trustee shall receive, hold, or disburse any or all revenues deposited with it by or by authority of the regents. The regents shall prescribe the duties and powers of any such trustee with respect to the issuance, authentication, sale, and delivery of the bonds and the payment of principal of, and interest on, the bonds, the redemption of the bonds, the registration and discharge from registration of the bonds, and the management of any sinking fund or other funds provided as security for the bonds.

92490. All bonds issued pursuant to this chapter are negotiable instruments, except when registered in the name of a registered owner.

92491. Except as provided otherwise in any indenture, the holder of any bond issued pursuant to this chapter may, by mandamus or other appropriate proceeding, require and compel the performance of any of the duties imposed upon the regents or upon any official or employee or assumed by the regents or any official or employee, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction, or insurance of any project, or the collection, deposit, investment, application, and disbursement of rents, rates, charges, fees, and all other revenues derived from the operation and use of any project or in connection with the deposit, investment, and disbursement of the proceeds received from the sale of bonds pursuant to this chapter. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this chapter.

92492. Notwithstanding any other provision of law, all bonds sold and delivered pursuant to this chapter are legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the state school funds, and any public or private funds which may be invested in county,

municipal, or school district bonds, and may be deposited as security for the performance of any act whenever the bonds of any county, municipality, or school district may be so deposited, and may also be used as security for the deposit of public moneys in banks of this state.

#### Article 4. Indentures

92510. The regents may enter into indentures providing for the aggregate principal amount, date or dates, maturities, interest rates, denominations, form, registration, transfer, and interchange of any revenue bonds and coupons issued pursuant to this chapter, and the terms and conditions on which the bonds shall be executed, issued, secured, sold, paid, redeemed, funded, and refunded. Reference on the face of the bonds to such indenture by its date of adoption, or the apparent date on the face thereof, is sufficient to incorporate all of the provisions of the indenture and of this chapter into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to, or detached from, the bonds, has recourse to all of the provisions of the indentures and of this chapter, and is bound thereby.

92511. An indenture pursuant to which bonds are issued may include any and all such covenants and agreements on the part of the regents as the regents deems necessary or advisable for the better security of the bonds issued pursuant to the indenture.

92512. An indenture shall provide the means by which payments of principal and interest of bonds shall be secured.

92513. An indenture may include a clause relating to the bonds issued pursuant to the indenture requiring the regents to pay or cause to be paid punctually the principal of all such bonds and the interest on such bonds on the date or dates, or at the place or places, and in the manner mentioned in such bonds and in the coupons appertaining to the bonds in accordance with such indenture.

92514. The regents may include in an indenture such limitations as to competitive projects, both as to location and comparative rentals, as may be deemed necessary or desirable for the security of revenue bonds issued pursuant to this chapter.

92515. The regents may also include in an indenture a covenant that no project acquired, constructed, or completed from the proceeds of revenue bonds issued by the regents shall be used without charge for such use or that no facilities of any such project shall be furnished free of charge to any person.

92516. An indenture may include a clause relating to the bonds issued pursuant to the indenture, requiring the regents to operate the project continuously, to the extent practicable under conditions as they may from time to time exist, in an efficient and economical manner.

92517. An indenture may include a clause relating to the bonds issued pursuant to the indentures requiring the regents to make all

necessary repairs, renewals, and replacements to any project, and to keep the project at all times in good repair, working order, and condition.

92518. An indenture may include a clause relating to the bonds issued pursuant to the indenture requiring the regents to preserve and protect the security of the bonds and the rights of the holders of the bonds and to warrant and defend such rights.

92519. An indenture may include a clause relating to the bonds issued pursuant to the indenture requiring the regents to pay and discharge, or cause to be paid and discharged, all lawful claims for labor, materials, and supplies or other charges which, if unpaid, might become a lien or charge upon the revenues, or any part of the revenues, of any project acquired, constructed, or completed from the proceeds of the sale of the bonds, or upon any physical properties, or which might impair the security of the bonds.

92520. An indenture may include a clause relating to the bonds issued pursuant to the indenture which limits, restricts, or prohibits any right, power, or privilege of the regents to mortgage or otherwise encumber, sell, lease, or dispose of any improvements constructed from the proceeds of the bonds, or to enter into any lease or agreement which impairs or impedes the operation of a project, or any part of a project, necessary to secure adequate revenues or which otherwise impairs or impedes the rights of the holders of the bonds with respect to such revenues.

92521. An indenture may include a clause relating to the bonds issued pursuant to the indenture requiring the regents to fix, prescribe, and collect rates, rentals, or other charges in connection with the services and facilities furnished from the project acquired, constructed, or purchased from part or all of the proceeds of the bonds, sufficient to pay the principal of, and interest on, the bonds as they become due and payable, together with such additional sums as may be required for any sinking fund, reserve fund, or other special fund provided for the further security of such bonds or as a depreciation charge or other charges in connection with such project.

92522. An indenture may include a clause relating to the bonds issued pursuant to the indenture requiring the regents to hold, or cause to be held, in trust the revenues, or any part of revenues, pledged to the payment of such bonds and the interest on such bonds, or to any reserve or other fund created for the further protection of the bonds, and to apply such revenues, or part of revenues, or cause them to be applied only as provided in the indenture.

92523. An indenture may include a clause defining the power of the regents in applying the proceeds of the sale of any issue of bonds for the acquiring, constructing, or completing of any project or any part of any project.

92524. An indenture may include a clause limiting the power of the regents to issue additional bonds for the purpose of acquiring,

constructing, or completing any project or any part of any project.

92525. An indenture may include a clause requiring, specifying, or limiting the kind, amount, and character of insurance to be maintained by the regents on any project, or any part of any project, and the use and disposition of the proceeds of any such insurance thereafter collected.

92526. An indenture may include a clause providing the events of default and the terms and conditions upon which any or all of the bonds of the regents then or thereafter issued may become or be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

92527. An indenture may include a clause designating the rights, limitations, powers, and duties arising upon breach by the regents of any of the covenants, conditions, or obligations contained in any indenture.

92528. An indenture may include a clause prescribing procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the regents and the vote or written assent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding. Such clause may provide for meetings of bondholders and for the manner in which the consent of the bondholders may be given. The clause shall specifically state the effect of such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining to the bonds, whether attached to the bonds or detached from the bonds.

92529. With respect to any clause providing for the modification or amendment of an indenture, the regents may agree that bonds held by the regents or by the state or any political subdivision of the state, including any public corporation, board, or agency of any class or kind, shall not be counted as outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any such modification or amendment.

92530. An indenture may include a clause or clauses providing for such other acts and matters as may be necessary or convenient or desirable in order better to secure the bonds or to make the bonds more marketable.

92531. The regents may provide in an indenture that the proceeds from the sale of all revenue bonds authorized pursuant to this chapter shall be paid directly to any bank or trust company designated by the regents as the fiscal agent or depository of the regents, to be held in a separate account to be designated the "construction fund" and to be disbursed in the manner and upon the conditions provided in the indenture for any of the following:

(a) The acquisition, construction, and completion of the project, including the payment of the cost of all surveys, preparation of plans and specifications, and the payment of all architectural, engineering, legal, and administrative costs.

(b) The payment of all costs and expenses of, and incident to, the issuance and sale of bonds.

(c) The payment of interest due, or to become due, on the bonds during the period of actual construction, and for such further period as may be specified in the indenture for the issuance of the bonds not exceeding two years after the period of construction.

92532. Moneys in any construction fund may be invested as the regents in its sole discretion shall determine, subject only to such limitations as may be provided in an indenture providing for the issuance of revenue bonds.

92533. After all the revenue bonds shall have been fully paid and discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in the construction fund shall, subject to the limitations and restrictions in any indenture providing for the issuance of the revenue bonds, become and be the property of the regents, and be used by the regents for any lawful purpose.

#### Article 5. Funding or Refunding Bonds

92570. The regents may provide for the issuance, sale, or exchange of refunding bonds for the purpose of redeeming or retiring any revenue bonds issued by the regents. All provisions of this chapter applicable to the issuance of revenue bonds are applicable to the funding or refunding bonds and to the issuance, sale, or exchange of funding or refunding bonds.

92571. Funding or refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be funded or refunded by such funding or refunding bonds, and in addition for the payment of all expenses incident to the calling, retiring, or paying of such outstanding bonds, and the issuance of such funding or refunding bonds. These expenses include the difference in amount between the par value of the funding or refunding bonds and any amount less than par for which the funding or refunding bonds are sold, any amount necessary to be made available for the payment of interest upon such funding or refunding bonds from the date of sale of the funding or refunding bonds to the date of payment of the bonds to be funded or refunded or to the date upon which the bonds to be funded or refunded will be paid pursuant to the call of the bonds to be funded or refunded or agreement with the holders of the bonds to be funded or refunded, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on the outstanding bonds to the date of the call or retirement.

## CHAPTER 6. MISCELLANEOUS PROVISIONS

## Article 1. University of California Police

92600. The Regents of the University of California are authorized and empowered to appoint one or more persons to be members of the University of California police department as such police department is constituted on September 19, 1947, or may thereafter be constituted. Persons employed and compensated as members of said police department, when so appointed and duly sworn, are peace officers; provided, that such officers shall not exercise their powers or authority except (a) upon the campuses of the University of California and an area within one mile of the exterior boundaries of each thereof, (b) in or about other grounds or properties owned, operated, controlled or administered by the Regents of the University of California, and (c) as provided in Section 830.2 of the Penal Code.

92601. Every member of the University of California police department shall be supplied with, and authorized to wear, a badge bearing the words "University of California Police."

## Article 2. Employees

92610. The Regents of the University of California shall make an annual report to the Governor and to each house of the Legislature on matters pertaining to and affecting the salaries, wages, hours of work, conditions of work and other matters relating to personnel under the jurisdiction of the regents and the employees of the University of California. The report shall be filed with the Governor at least 30 days prior to the opening day of the Legislature each year and shall be filed with each house of the Legislature within five days after the opening day of the Legislature in each year.

92611. The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the regents shall ascertain, as to each such position, the general prevailing rate of such wages in the various localities of the state.

In fixing such minimum and maximum salary limits within the various localities of the state, the regents shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained for the various localities.

## Article 3. Employment of Women

92620. It is the intent of the Legislature that the Regents of the University of California shall eliminate all policies which detrimentally and unreasonably affect the employment status of

females hired by the university. To accomplish this purpose, the regents shall:

- (a) Review hiring, wages, job classifications and advancement practices as applied to female employees;
- (b) Review selection procedures utilized for employment of female employees to determine disparate selection practices;
- (c) Review opportunity of advancement for qualified female employees to executive positions within departments and divisions.

#### Article 4. Graduate Community Teaching Fellowships

92630. It is the intent of the Legislature in providing funds for graduate community teaching fellowships:

- (a) To encourage school districts with large numbers of educationally disadvantaged children to enter into cooperative arrangements with branches of the University of California for the provision of specialized teaching for disadvantaged children at the elementary level; and
- (b) To provide graduate students in mathematics who wish to engage in such services a source of financial support comparable to that provided by the teaching assistant program.

92631. All moneys appropriated to the University of California, for the purposes of this chapter, shall be distributed on the same basis as funds for teaching assistantships, subject to the following criteria:

- (1) The administration of the University of California shall have final authority with regard to release of such funds.
- (2) In order to participate in this program as a paid employee of the university assigned to a particular school district, (1) a student must be enrolled at any one of the participating branches of the university for a graduate degree in one of the mathematical sciences; (2) the student's program adviser and the chairman of the department in which the graduate student is undertaking a majority of his academic work must approve and certify that the student's program will not be jeopardized; and (3) a contract entered into between a branch of the university and a school district shall be contingent upon a joint recommendation by the student's program adviser and department chairman.

92632. Although employed in a school district and conducting himself according to stipulations set forth by the school district in the agreement, the graduate student shall be deemed the employee of the University of California for all purposes.

92633. In order to receive a salary comparable to that provided a teaching assistant or research assistant, the community teaching fellow shall teach the equivalent of one full class period per day for five days per week for the school year.

92634. If for any reason, other than reasons applicable to the teaching assistant program, the graduate teaching fellow does not teach for as many hours per week or per semester as called for in the agreement, his stipend shall be reduced on a pro rata basis.

92635. Provisions of this chapter shall apply only to the University of California, and graduate community teaching fellowships are to be limited to students enrolled for a graduate degree in one of the mathematical sciences.

92636. Although all school districts are encouraged to undertake cooperative arrangements with the University of California for the purposes of this chapter, only school districts with elementary schools serving areas which meet the criteria set forth in Section 54483 may utilize a graduate community teaching fellow whose salary is provided under preceding sections of this chapter.

92637. Results of the graduate community teaching fellowship program are to be evaluated by the school district separately in the same manner as current programs of compensatory education at the end of each school year. Provisions for such evaluation shall be included in the terms and conditions of the contract between the school district and the university.

#### Article 5. Suits Against the University

92650. (a) At any time after the filing of the complaint in any action against the Regents of the University of California, the regents may file and serve a demand for a written undertaking on the part of each plaintiff as security for the allowable costs which may be awarded against such plaintiff. The undertaking shall be in the amount of one hundred dollars (\$100) for the plaintiff or in the case of multiple plaintiffs in the amount of two hundred dollars (\$200), or such greater sum as the court shall fix upon good cause shown, with at least two sufficient sureties, to be approved by the court. Unless the plaintiff files such undertaking within 20 days after service of a demand therefor, his action shall be dismissed.

(b) If judgment is rendered for the regents in any action against it, allowable costs incurred by the regents in the action shall be awarded against the plaintiffs.

(c) This section does not apply to an action commenced in a small claims court.

### DIVISION 10. PRIVATE POSTSECONDARY AND HIGHER EDUCATION INSTITUTIONS

#### PART 59. PRIVATE POSTSECONDARY AND HIGHER EDUCATION INSTITUTIONS

##### CHAPTER 1. LELAND STANFORD JUNIOR UNIVERSITY

#### Article 1. Corporate Power

94000. The trustees of the Leland Stanford Junior University may exercise corporate powers and privileges. To that end they may:

- (a) Organize and act as a board of trustees.
- (b) Elect such officers of the board as they deem necessary.
- (c) Adopt bylaws.

As a board, and through the officers thereof, they may transact such business, perform such acts and exercise such powers as they in writing provide may be transacted, performed, and exercised by the board.

94001. The board may adopt a seal which shall read, "Seal of the Leland Stanford Junior University." The seal, when attached to any document or writing is prima facie evidence that the document or writing was made by and under due authority from the board and from the trustees.

94002. Nothing in this article shall be deemed to alter the tenure or limit the powers or obligations of the trustees.

### Article 2. Tuition

94010. The trustees of the Leland Stanford Junior University may charge residents and nonresidents of this state such fees for tuition, as are necessary for the administration of the affairs of the university.

### Article 3. Taxation

94020. The exemption from taxation of the Leland Stanford Junior University is as provided in Section 6 of Article XIII of the California Constitution; provided, however, that it shall hold exempt from taxation all real property used by it exclusively for educational purposes.

94021. Property held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University shall be deemed to be held and used by the university exclusively for educational purposes as required by Article XX, Section 6, of the California Constitution if it constitutes part of a medical facility wherein medical students, interns, residents and fellows receive medical training or participate in medical research.

It is the intent and purpose of this section to clarify the provisions of Article XX, Section 6, of the California Constitution and to clarify the provisions of Section 94020.

## CHAPTER 2. CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY ACT

### Article 1. Purpose

94100. It is the purpose of this chapter to give this and future generations of youth the fullest opportunity to learn and develop

their intellectual and mental capacities by providing private institutions of higher education within the state an additional means by which to expand, enlarge, and establish dormitory, academic, and related facilities, to finance such facilities, and to refinance existing facilities.

94101. This chapter shall be known and may be cited as the California Educational Facilities Authority Act.

## Article 2. Definitions

94110. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

“Authority” means the California Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the power conferred upon the authority by this chapter shall be given by law;

“Bond” means bonds, notes, debentures, or other securities that are negotiable instruments pursuant to Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the authority issued pursuant to this chapter that the State Treasurer is authorized to sell at such time or times and in such amounts as may be fixed by the State Treasurer, provided that he shall first offer to sell such instruments at a public sale, and if no bids or in his determination not sufficient bids are received, he then may offer to sell the instruments privately;

“Dormitory” means a housing unit with necessary and usual attendant and related facilities and equipment;

“Educational facility” means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, health care facility (including for an institution of higher education which maintains and operates a school of medicine, structures or facilities providing or designed to provide services as a hospital or clinic, whether such hospital or clinic is operated directly by the institution of higher education or by a separate nonprofit corporation, the member or members of which consist of the educational institution or the members of its governing body), and parking, maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an

institution for higher education, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship or any facility used or to be used primarily in connection with any part of the program of a school or department of divinity;

“Participating college” means a private college which neither restricts entry on racial or religious grounds nor requires all students gaining admission to receive instruction in the tenets of a particular faith, and which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

“Project” means a dormitory or an educational facility or any combination thereof;

“Private college” means an institution for higher education other than a public college, situated within the state and which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level;

“Cost,” as applied to a project or portion thereof financed under the provisions of this chapter, embraces all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction as determined by the authority, provisions for working capital, reserves for additions, replacements, renovations and improvements, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

### Article 3. Organization of Authority and General Powers and Duties Thereof

94120. (a) There is in the state government an authority known as the California Educational Facilities Authority. The authority constitutes a public instrumentality and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function.

(b) The authority shall consist of five members: the Director of Finance, the State Controller, the State Treasurer, and two members appointed by the Governor to serve for terms of four years; provided that the terms of the members first appointed shall be arranged by the Governor so that such terms shall expire on April 30 in different years. One of the members appointed by the Governor shall be

affiliated with a public institution of higher education as a governing board member or in an administrative capacity and the other member shall be affiliated with a private institution of higher education as a governing board member or in an administrative capacity. Each member shall hold office for the term of his appointment and shall continue to serve during the term of his successor unless and until his successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a chairman and a vice chairman who shall hold office until April 30 next ensuing and shall continue to serve during the terms of their respective successors unless and until their respective successors shall have been appointed and qualified.

94121. The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

94122. Before the issuance of any bonds under the provisions of this chapter, the members and the officers and the executive secretary of the authority charged with the handling of the authority's moneys shall be covered by a surety bond or bonds, including a blanket bond covering all members of the authority and staff, in a penal sum of not less than fifty thousand dollars (\$50,000) per person conditioned upon the faithful performance of the duties of their respective offices, and executed by a surety company authorized to transact business in the State of California as surety. Each such bond shall be submitted to the Attorney General for his approval and upon his approval shall be filed in the office of the Secretary of State prior to the issuance of any bonds by the authority. At all times after the issuance of any bonds by the authority the officer of the authority and each member charged with the handling of the authority's moneys shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the authority.

94123. Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of a participating college to serve as a member of the authority; provided such trustee, director, officer or employee shall abstain from discussion, deliberation, action and vote by the authority under this chapter in specific respect to such participating college of which such member is a trustee, director, officer or employee. It shall not be or constitute a conflict of interest for a member of the authority to be affiliated with a bank that serves the authority as bond trustee, depository of funds, or in any other financial, advisory, or fiduciary capacity.

94124. The authority shall maintain an office in the City of Sacramento.

94125. The authority may employ an executive secretary and such other persons as are necessary to enable it properly to perform the duties imposed upon it by this chapter.

#### Article 4. Powers and Duties; Notes and Bonds

94140. The authority shall have power:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt and have an official common seal and alter the same at pleasure;

(c) To sue and be sued in its own name, and plead and be impleaded;

(d) To borrow money and to issue bonds and notes and other obligations of the authority and to provide for the rights of the holders thereof as provided in this chapter;

(e) To acquire, lease as lessee, hold and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this chapter;

(f) To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper any land or interest therein and other property which it may determine is reasonably necessary for any project, including any lands held by any county, municipality or other governmental subdivision of the state; and to hold and use the same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the authority's purposes;

(g) To receive and accept, from any federal or other public agency or governmental entity, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants, loans and contributions may be made;

(h) To prepare or cause to be prepared plans, specifications,

designs and estimates of costs for the construction and equipment of projects for participating colleges under the provisions of this chapter, and from time to time to modify such plans, specifications, designs or estimates;

(i) By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, projects for participating colleges;

(j) To employ consulting engineers, architects, accountants, construction and financial experts, superintendents, and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(k) To determine the location and character of any project to be undertaken pursuant to the provisions of this chapter, and to construct, reconstruct, repair, lease, as lessee or lessor, the same; to enter into contracts for any or all such purposes; and to designate a participating college as its agent to determine the location and character of a project undertaken by such participating college under the provisions of this chapter and, as the agent of the authority, to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and, as agent of the authority, to enter into contracts for any and all such purposes including contracts for the management and operation of such project;

(l) To establish rules and regulations for the use of a project or any portion thereof and to designate a participating college as its agent to establish rules and regulations for the use of a project undertaken by such participating college;

(m) Generally to fix and revise from time to time and to charge and collect rates, rents, fees and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with holders of its bonds and with any other person, party, association, corporation or other body, public or private, in respect thereof;

(n) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this chapter;

(o) To invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in such obligations as are authorized by law for the investment of trust funds in the custody of the State Treasurer.

(p) To charge, and equitably apportion among participating colleges, its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

94141. All expenses incurred in carrying out the provisions of this chapter shall be payable from funds provided the authority therefor, and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided therefor.

94142. The authority shall establish financial eligibility standards by studying the creditworthiness and earning capacity of each project together with the amount of pledged revenues, debt service coverage, and basic security, in addition to establishing machinery to monitor the ongoing compliance of each project with state authority and bond indenture requirements.

94143. The authority is authorized from time to time to issue its negotiable notes for any corporate purpose and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

94144. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys and subject to any agreements with any participating institution. Notwithstanding that such bonds or notes may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds or notes for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or

rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine.

Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to: (1) pledging the full faith and credit of the authority or pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist; (2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues; (3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof; (4) limitations on the right of the authority or its agent to restrict and regulate the use of the project; (5) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds; (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds; (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority; (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; and (10) the mortgaging of a project and the site thereof for the purpose of securing the bondholders.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

94145. In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

94146. Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision other than the authority, but shall be payable solely from the funds herein provided. All such bonds shall contain on the face thereof a statement to the effect that neither the State of California nor the authority shall be obligated to pay the same or the interest thereon except from revenues of the project or the portion thereof for which they are issued and that neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section contained shall prevent nor be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating institution to the payment of bonds or issue of bonds authorized pursuant to this chapter.

94147. The authority is authorized to fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services

furnished or to be furnished by each project and to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rents, rates, fees and charges from such project so as to provide funds sufficient with other revenues or moneys, if any:

(a) To pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for;

(b) To pay the principal of and the interest on outstanding bonds of the authority issued in respect of such project as the same shall become due and payable; and

(c) To create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds of the authority.

Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this state other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such bonds issued to finance projects at a participating college without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that

such sinking or other similar fund shall be the fund for a particular project at a participating college and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds.

94148. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

94149. All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide.

94150. (a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds or notes of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(c) Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

(e) All such bonds shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

94151. (a) The authority is hereby authorized to loan funds to a participating institution and to provide for the issuance of bonds for the purpose of refinancing projects not originally funded pursuant to this chapter and which have a completion date not greater than three years from the date of enactment of this chapter.

(b) For purposes of this section, "completion date" shall mean the date on which the notice of completion is filed.

(c) All such bonds shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

94152. Bonds and notes issued by the authority under the provisions of this chapter are hereby made securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to

them or within their control; and said bonds, notes or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

94153. The total amount of bonds authorized to be issued and sold under this chapter shall be one hundred fifty million dollars (\$150,000,000), provided that not more than fifty million dollars (\$50,000,000) of such bonds shall be issued and sold within two years of March 7, 1973.

94154. The State of California does pledge to and agree with the holders of the bonds, notes and other obligations issued pursuant to authority contained in this chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter or restrict the rights hereby vested in the authority and the participating colleges to maintain, construct, reconstruct and operate any project as defined in this chapter or to establish and collect such rents, fees, receipts or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to the provisions of this chapter, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

94155. On or before March 31 in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants.

94156. The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the authority will constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the authority under the provisions of this chapter, or upon the income therefrom, and any bonds issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by the

municipalities and other political subdivisions in the state.

### Article 5. Conflicts of Interest

94170. Except as otherwise expressly provided in this chapter, any member, officer, agent or employee of the authority who is interested, either directly or indirectly, in any contract of another with the authority, or in the sale of any property, either real or personal, to the authority, shall be guilty of a misdemeanor.

### Article 6. Examination and Visitorial Power of State; Assistance of State Employees

94180. The State Controller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating to its financial standing.

94181. The authority shall be entitled to call to its assistance and avail itself of the services of such employees of any state department or agency as it may require and as may be available to it for said purpose.

The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this chapter, including the appointment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

### Article 7. Construction of Facilities

94190. In addition to foregoing powers, the authority shall have power:

(a) Upon application of the participating college to construct, acquire or otherwise provide projects for the use and benefit of the participating college and the students, faculty and staff of such participating college. The participating college for which such a project is undertaken by the authority shall approve the plans and specifications and location of such project;

(b) To lease any project provided pursuant to this section to the participating college for which such project is provided. At such time as the liabilities of the authority incurred for any such project have been met and the bonds of the authority issued therefor have been paid, or such liabilities and bonds have otherwise been discharged, the authority shall transfer title to all the real and personal property of such project vested in the authority, to the participating college in connection with which such project is then leased; provided, however, that if at any time prior thereto such participating college

ceases to offer educational facilities, then such title shall vest in the State of California.

Any lease of a project authorized by this section shall be a general obligation of the lessee and may contain provisions, which shall be a part of the contract with the holders of the bonds of the authority issued for such project, as to:

(i) Pledging all or any part of the moneys, earnings, income and revenues derived by the lessee from such project or any part or parts thereof, or other personal property of the lessee, to secure payments required under the terms of such lease;

(ii) The rates, rentals, fees and other charges to be fixed and collected by the lessee, the amounts to be raised in each year thereby, and the use and disposition of such moneys, earnings, income and revenues;

(iii) The setting aside of reserves and the creation of special funds and the regulation and disposition thereof;

(iv) The procedure, if any, by which the terms of such lease may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(v) Vesting in a trustee or trustees such specified properties, rights, powers and duties as shall be deemed necessary or desirable for the security of the holders of the bonds of the authority issued for such projects;

(vi) The obligations of the lessee with respect to the replacement, reconstruction, maintenance, operation, repairs and insurance of such project;

(vii) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the lessee, and providing for the rights and remedies of the authority and of its bondholders in the event of such default;

(viii) Any other matters, of like or different character, which may be deemed necessary or desirable for the security or protection of the authority or the holders of its bonds.

94191. The authority also shall have power:

(a) To make loans to any private college for the construction of projects in accordance with a loan agreement and plans and specifications approved by the authority. No such loan shall exceed the total cost of such project and the equipment therefor as determined by the authority. Each such loan shall be premised upon an agreement between the authority and the private college as to payment, security, maturity, redemption, interest and other appropriate matters.

(b) To make loans to any private college to refund existing bonds, mortgages or advances given or made by such private college for the construction of projects to the extent that this will enable such private college to offer greater security for loans for new project construction.

94192. For the purpose of obtaining and securing loans under Section 94191 every private college shall, notwithstanding the

provisions of any other law, have power to mortgage and pledge any of its real or personal property, and to pledge any of its income from whatever source to repay the principal of and interest on any loan made to it by the authority or to pay the interest on and principal and redemption premium, if any, of any note, bond or other evidence of indebtedness evidencing the debt created by any such loan; provided that the foregoing shall not be construed to authorize actions in conflict with specific legislation, trusts, endowment, or other agreements relating to specific properties or funds.

94193. Moneys of the authority received from any private college in payment of any sum due to the authority pursuant to the terms of any loan or other agreement or any bond, note or other evidence of indebtedness, shall be deposited in an account in which only moneys received from private colleges shall be deposited and shall be kept separate and apart from and not commingled with any other moneys of the authority. Moneys deposited in such account shall be paid out on checks signed by the chairman of the authority or by such other person or persons as the authority may authorize.

94194. (a) Whenever the authority under Section 94190 undertakes to construct, acquire or otherwise provide a project and to lease the same to a private college, the lessee shall be responsible for the direct operation and maintenance costs of such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the lessee which are incurred because of such project and for the integration of each project operation into the lessee's educational program.

(b) Whenever the authority under Section 94191 makes loans for the construction of a project, the private college at which such project is located shall be responsible for the direct operation and maintenance costs of such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the private college which are incurred because of such project and for the integration of each project operation into the institution's educational program.

94195. Any pledge of moneys, earnings, income or revenues authorized with respect to private colleges, pursuant to the provisions of this chapter, shall be valid and binding from the time when the pledge is made. The moneys, earnings, income or revenues so pledged and thereafter received by the pledgor shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the pledgor irrespective of whether such parties have notice thereof. No instrument by which such a pledge is created need be filed or recorded in any manner.

## Article 8. Construction

94210. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

94211. Nothing contained in this chapter shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit of the state.

94212. The foregoing sections of this chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

94213. The powers granted to the authority by this chapter may be exercised without regard or reference to any department or agency of the state. All other general or special laws, or parts thereof, inconsistent with this chapter are hereby declared to be inapplicable to the provisions of this chapter.

## CHAPTER 3. PRIVATE POSTSECONDARY INSTITUTIONS

94300. It is the intent of this Legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions.

It is also the intent of the Legislature to encourage the recognition by tax-supported institutions of work completed and degrees and diplomas issued by privately supported institutions, to the end that students may have equal opportunities for equal accomplishment and ability.

In the present period the need for educational services for the youth is so great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These objectives can best be achieved by protecting the integrity of degrees and diplomas issued by such institutions.

94301. As used in this article "degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor or fellow which signifies, purports or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is a recognized honorary title conferred for some meritorious recognition.

As used in this article "diploma" means any "diploma,"

“certificate,” “transcript,” “document,” or other writing in any language other than a degree representing that any person has completed any course of study beyond high school.

Any person, firm, association, partnership, or corporation qualifying under this division to issue “degrees” or “diplomas” is considered as being authorized to issue appropriate related documents, setting forth the training and attendance completed by students enrolled in the course of study.

Graduation from high school or its equivalent need not be nor purport to be a prerequisite for undertaking or completing such course of study.

94302. Notwithstanding the provision of Section 94301, “diploma” does not include a certificate of graduation issued in connection with the educational requirements of Section 2941.5 of the Business and Professions Code; provided, that such certificate is delivered solely to the Psychology Examining Committee, to be retained in its file until such time as the recipient may pass the examination of said examining committee, at which time said certificate, or a duplicate thereof, shall be delivered to him.

94303. Notwithstanding the provisions of Section 94301, “diploma” does not include a document evidencing completion of a course of in-service training given by any person, firm, association, partnership, or corporation, if all of the following conditions apply:

(a) The course of in-service training is given in connection with the primary business or purpose of the person, firm, association, partnership, or corporation, and such primary business or purpose is not education.

(b) The course of in-service training and the document is given only to employees of such person, firm, association, partnership, or corporation, or to employees or representatives of customers of such person, firm, association, partnership or corporation.

(c) No charge is asked or collected from the persons taking the course or receiving the document.

(d) The document issued for in-service training is a certificate which sets forth the extent of attendance or performance or both in an area of training.

(e) All statements made on the certificate are truthful.

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the Director of Education, or his designee, and 12 additional members who shall be appointed by the Director of Education, subject to the concurrence of the State Board of Education, as follows:

(1) Six members who shall be administrative heads of institutions operating under the authority of Section 94310 or Section 94312. One such member shall be selected from a school or college operating under paragraph (1) of subdivision (a) of Section 94310 and one shall be the administrative head of a school or college operating under subdivision (b), (c), or (d) of Section 94310. Except as provided elsewhere in this section, no person shall be eligible for appointment

if he is the administrative head of an institution authorized exclusively under the provisions of paragraph (3) of subdivision (a) of Section 94310.

(2) Six shall represent the public. Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of person in positions requiring vocational and technical skills.

(3) In addition, the following shall serve as ex officio members of the council:

- (i) The Director of the Department of Consumer Affairs.
- (ii) The Chief of the Division of Apprenticeship Standards.
- (iii) One administrative head of an institution operating exclusively under the provisions of paragraph (3) of subdivision (a) of Section 94310 appointed by the Director of Education; such appointment shall no longer be made when all such institutions have qualified under other provisions of the code.

Ex officio members have no vote.

(b) The first members shall be appointed on or before January 15, 1973, and the Director of Education shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976.

Thereafter, the terms of the members of the council shall be three years. No appointee shall serve on the council for more than six consecutive years.

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the Director of Education, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall advise the Director of Education on the establishment of policy for the administration of this article and on the adoption of regulations governing the exercise of authority conferred on the Director of Education by this article and on any action by the Director of Education to grant, deny, suspend, or withdraw recognition of courses or schools pursuant to this article. All advice communicated to the Director of Education shall be adopted by an affirmative vote of a majority of the membership of the council, and shall be in writing.

(g) The Director of Education, with the advice of the council, shall:

(1) Establish policy for the administration of this chapter.

(2) Adopt regulations not inconsistent with this chapter governing the exercise of authority conferred by this article which shall be adopted in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Prepare, annually, a proposed budget for the support of the activities of the Department of Education pursuant to this article. The proposed budget shall be presented to the council for its review and recommendations.

(h) The Director of Education shall:

(1) Advise the council prior to promulgating any rules or regulations pursuant to this section and prior to instituting any action to deny, suspend, or withdraw recognition of courses or schools pursuant to this article.

(2) Take into consideration the advice of the council on all matters where the council is authorized by this section to communicate advice to the Director of Education.

(i) The Director of Education may impanel special committees of technically qualified persons to assist him and the council in the development of standards for courses and the evaluation of any course or school applying for recognition pursuant to subdivision (a) (2) of Section 94310 and Section 94312. The special committees shall make such inspections and studies as may be necessary to enable them to advise the council and the Director of Education in regard to action to be taken in any particular situation. Members of these special committees shall not be connected in any way with a school which is the subject of inspection or investigation. The members of the special committees shall serve at no expense to the state.

94305. A corporation may be formed pursuant to this article for the purpose of establishing, conducting, and maintaining an educational institution offering courses of instruction beyond high school, and issuing or conferring a diploma or degree. Such institutions shall include, but not be limited to, seminaries of learning, specialized educational institutions, junior colleges,

colleges, and universities, offering courses beyond high school.

94306. A corporation formed pursuant to this article shall comply with Chapter 1 (commencing with Section 300) of Part 2, Division 1, Title 1 of the Corporations Code, except that in lieu of the requirements of Sections 301 to 305, inclusive, the articles of incorporation shall state:

(a) The name of the corporation.

(b) The purpose for which it is organized.

(c) The county in this state where the principal office for the transaction of the business of the corporation is to be located.

(d) The names, residence address and number of its directors at the time of its incorporation. Provision may be made that the number of directors may be established by the bylaws; provided, that the number of directors may not be less than five.

94307. (a) If a corporation formed pursuant to this article is to be authorized to issue shares of stock, the articles of incorporation shall state the total number of shares which the corporation shall have authority to issue and (1) the aggregate par value, if any, of all shares, and the par value of each of the shares, or (2) a statement that all the shares are to be without par value and except as herein provided shall be treated for all purposes as being incorporated pursuant to Division 1 (commencing with Section 300) of Title 1 of the Corporations Code.

(b) If a corporation formed pursuant to this article is to be authorized as a nonprofit corporation without authority to issue shares of stock, the articles of incorporation shall so state and except as herein provided, such corporation shall be treated for all purposes as being incorporated pursuant to Part 1 (embracing Sections 9000 to 9802, inclusive) of Division 2 of Title 1 of the Corporations Code and shall have the general powers granted by Section 10206 of the Corporations Code.

94308. The provisions of Sections 94302 to 94304, inclusive, do not apply to any diploma or course of instruction given by a bona fide church or religious denomination if such course is limited to instructions in the principles of that church or denomination or to courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma is limited to evidence of completion of that course.

94309. No person, firm, association, partnership or corporation may issue or confer any honorary degree, diploma or certificate whatsoever unless such degree, diploma or certificate clearly and plainly states on its face that it is honorary.

No person shall use, in connection with any business or profession, any title or designation signifying that he has been awarded any degree, diploma, or certificate which clearly and plainly states on its face that it is honorary. Nothing in this section, however, prohibits the use of an honorary degree when such use does not imply that the user possesses an economically valuable professional or technical skill.

94310. Except as otherwise provided by law, no person, firm, association, partnership or corporation may issue, confer or award an academic or honorary "degree" or "title" (meaning any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor or fellow) which signifies, purports or is generally taken to signify satisfactory completion of the requirements of an academic, technological, or professional program of study beyond the secondary school level unless such person, firm, association, partnership or corporation meets the requirements of any one of the three subdivisions of subdivision (a) of this section.

No person, firm, association, partnership or corporation may issue, confer, or award any "diploma" bearing the words diploma, certificate, transcript, document or other writing, other than the awarding of a "degree" title, representing that any person has completed any course of study beyond high school unless such person, firm, association, partnership or corporation meets the requirements of paragraph (2) of subdivision (a) of this section or one of the subdivisions (b), (c), or (d) of this section or Section 94312.

(a) (1) A person, firm, association, partnership or corporation which at the time of the issuance of a "degree" has full accreditation of the institution, program, or specific course of study upon which the "degree" is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education, and provided further that the educational institution has filed with the Superintendent of Public Instruction an affidavit by the administrative head of the institution stating that the institution is so accredited.

(2) A person, firm, association, partnership or corporation approved by the Superintendent of Public Instruction to award or issue specified degrees. Such permission shall be granted by the Superintendent of Public Instruction for one year upon the initial approval and shall be granted for periods of three years upon each subsequent renewal, subject to the payment of an annual fee pursuant to paragraph (2) of subdivision (a) of Section 94315. Application for such authorization shall be on forms furnished by the State Department of Education. The Superintendent of Public Instruction shall not approve an institution to issue degrees until it is determined, based on information submitted to him, that the institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a recognized professional, vocational, or educational objective, including, but not limited to, a degree; and the curriculum is consistent in quality with curricula offered by established institutions that issue the appropriate degree upon the satisfactory completion thereof. For the purpose of this subdivision the Superintendent of Public Instruction may compare with the requirements and standards of an accrediting agency generally

accepted by the class of institution concerned. This shall include the determination that the course for which the degree is granted achieves its professed or claimed objective for higher education. The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the Superintendent of Public Instruction made pursuant to this subdivision.

Those institutions authorized to confer degrees pursuant to this subdivision may also be authorized by the Superintendent of Public Instruction to issue diplomas for the completion of courses of study, within their approved degree program, but which do not fully meet the degree requirements.

(3) A corporation which has filed with the Superintendent of Public Instruction an affidavit by the president or other head of the corporation, stating that the corporation owns an interest in real or personal property or both real and personal property used exclusively for the purpose of education, of a fair market value of not less than fifty thousand dollars (\$50,000). Such affidavit shall be accompanied by an appraisal by a state inheritance tax appraiser appointed for the county in which the institution is located, describing the real or personal property or both, and showing the value of the interest of the corporation therein to be at least fifty thousand dollars (\$50,000). The value of the interest of the property required to be owned by the corporation for the purposes of this section shall be deemed to be the appraised value of the interest owned by the corporation less the unpaid balance on any note secured by a mortgage or deed of trust thereon or the unpaid balance on a contract of sale thereof. Such a corporation shall file a statement of "full disclosure" by recording with the county recorder, in the county in which the school operates, an affidavit describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty (with qualifications), physical facilities, administrative personnel, educational records, tuition and fee schedule, scholastic regulations, diplomas and degrees to be conferred, graduation requirements and financial stability. Certified copies of all statements and affidavits required to be filed by this section shall be forwarded by United States mail to the Department of Education within 48 hours after the filings are made with the county recorder. Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any corporation to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, the California State Department of Education, or any division or bureau thereof, has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study.

(b) A hospital licensed under the provisions of Division 2, Chapter 2 (commencing with Section 1400) of the Health and Safety Code, which issues diplomas in connection with the operation of a hospital.

(c) A person, firm, association, partnership or corporation which is accredited, approved, or licensed by a state board or agency as a school and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it; provided, that this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled by the accrediting, approving, or licensing board.

(d) A person, firm, association, partnership, or corporation which at the time of the issuance of a "diploma," as defined in Section 94301, has accreditation of the institution, program or specific course of study upon which the "diploma" is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education and the administrative head of the institution has filed with the Superintendent of Public Instruction during the current calendar year the following affidavits:

(1) Verification that each course of study for which a diploma is issued is so accredited.

(2) Verification that the institution is financially capable of fulfilling its commitments for its accredited courses.

(3) Verification that the institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(4) Verification that the institution has and maintains a policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall set forth a minimum standard of refunds in accordance with rules and regulations adopted by the Superintendent of Public Instruction.

Affidavits required by this subdivision shall be filed on an annual basis.

94311. The provisions of subdivision (a) of Section 94310 shall not apply to any "degree" or "title" awarded by any school accredited pursuant to the provisions of subdivision (g) (1) and (2) of Section 6060 of the Business and Professions Code.

94312. Except as otherwise provided for in this code, no course of education or training leading to an educational, technological, professional or vocational objective shall be offered, and no diploma or honorary degree shall be issued or conferred, by any person, firm, association, partnership, corporation, or other entity which has not been approved by the Superintendent of Public Instruction. Application for such approval shall be made in writing on application forms provided by the Department of Education. Pending final approval of new or added courses of instruction, the Superintendent of Public Instruction may issue a temporary approval upon submission of the complete application. A temporary approval shall

be for a period of one year, subject to prior termination or conversion to annual approval basis by the Superintendent of Public Instruction. Any extension of a temporary approval on an annual basis shall require an annual fee. Courses offered for adults by any parochial or denominational school, or persons, firms, associations, partnerships, or corporations that have met the requirements of other sections of this division, or are offered solely for avocational or recreational purposes, will not be required to be approved under this section.

The Superintendent of Public Instruction may approve the application for recognition of such courses for a period of one year and shall grant subsequent approvals on an annual basis when an institution is found by the Department of Education to meet the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools or other private schools, or both, in the state, with recognized accepted standards; or that the course, curriculum, and instruction meet recognized accepted standards for reaching the professed or claimed objective for that particular course.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of that particular course.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is available to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state and federal regulations such as fire, building, and sanitation codes. The Department of Education may require evidence of compliance.

(8) The institution is financially capable of fulfilling its commitments for its approved courses.

(9) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. With respect to a school having courses approved by the Superintendent of Public Instruction, the school can advertise to the effect that the particular course has been approved by the Superintendent of Public Instruction.

(10) The institution does not exceed enrollment facilities and equipment.

(11) The institution's administrator, director, owner, and instructors are of good reputation and character.

(12) The institution has and maintains a policy in reference to

refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall set forth a minimum standard of refunds in accordance with rules and regulations adopted by the Superintendent of Public Instruction.

(13) The institution designates an agent for service of process within the state.

(14) In any written contract or agreement for a course of study with an institution there shall be included on the first page of such agreement or contract, in 14-point boldface print or larger, the following statement:

“Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the institution should be directed to the Director of Education, Department of Education, Sacramento, California, 95814.”

In addition, such written contracts or agreements shall specify, on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters, or both, which are of larger print than the rest of the contract or agreement.

Upon completion of training, the institution may award a “diploma,” as defined in Section 94301, to the student indicating the training and attendance completed.

The Superintendent of Public Instruction shall consult with the Department of Health prior to approving programs for training medical assistants pursuant to this section. The consultation with the Department of Health shall concern the minimal standards for facilities, faculty, and curriculum for programs which train medical assistants to the extent that is found necessary to provide sufficient training and skill for graduates to perform competently as medical assistants. The Department of Education may contract with the Department of Health for such consulting services.

For purposes of this section, “medical assistant” is defined as a person employed by a licensed physician or physicians, or a medical corporation established pursuant to Article 17 (commencing with Section 2500) of Chapter 5 of Division 2 of the Business and Professions Code and who performs basic administrative, clerical, and technical supportive services for such physician, or physicians, or medical corporation.

This section shall not be construed to permit medical assistants to perform direct patient care services or other functions requiring a license pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the Superintendent of Public Instruction made pursuant to this section.

Sections 1292, 1293, and 1294 of the Labor Code shall not apply to

work experience education programs established pursuant to this section, provided there is continuous and competent supervision by a qualified person.

94313. No person, either on his own behalf or as the representative of any privately conducted correspondence school or of any private person, firm, association, partnership, or corporation whatever, shall, by personal contact, in California, solicit the sale of or solicit and sell any correspondence course of study beyond high school, of high school level, or below high school level, for a remuneration or other consideration to be provided for such course, unless he holds a valid permit to engage in such activity issued by the State Board of Education. The State Board of Education may delegate its authority to issue this permit to the State Superintendent of Public Instruction.

The State Board of Education, or the State Superintendent of Public Instruction, if such authority has been delegated by the State Board of Education, shall promptly cause to be prepared, and shall, pursuant to this section, issue appropriate permits authorizing the holder to engage in the solicitation of sales and the selling of such courses of study.

No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

A permit shall be valid for the calendar year in which it is issued unless sooner revoked or suspended by the State Board of Education for fraud or misrepresentation in connection with the solicitation for the sale or the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he represents which, if in existence at the time the permit was issued would have been ground for denial of the permit.

The application for a permit shall be made by the person who proposes to engage in the activities of soliciting or selling in those cases where such activities are to be conducted in the person's own behalf. Where the person for whom the issuance of a permit is sought is to engage in the activities as a representative, the application shall be made by the correspondence school or other person, firm, association, partnership, or corporation for and on behalf of the person to serve as its representative. Applications shall be submitted on forms to be furnished by the Department of Education. The original application, renewal applications when renewed on a continuous basis, and applications for additional sales permits shall be accompanied by an application fee in an amount established pursuant to subdivision (e) of Section 94315. Fees required by this section are hereby appropriated in augmentation of the appropriation for support of the Department of Education current at the date of issuance of the State Controller's receipt thereof as may be designated by the Department of Education prior to their deposit in the State Treasury and shall be nonrefundable irrespective of whether or not a permit is subsequently issued.

The application shall be accompanied by a bond executed by good

and sufficient sureties making provision for full indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the correspondence school or other person, firm, association, partnership, or corporation, or by the person for whom issuance of the permit is sought, and may extend to cover either an individual for such person or to provide blanket coverage for all persons to be engaged as representatives of a correspondence school or other person, firm, association, partnership or corporation in the solicitation for sale or the sale of correspondence courses of study in California. Any bond shall provide for liability in the penal sum of one thousand dollars (\$1,000) for each representative to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the State Board of Education.

The permittee shall carry the permit with him for identification purposes when engaged in the solicitation of sales and the selling of correspondence courses of study.

Any contract for or in connection with a course of study with a correspondence school, or representative thereof, shall be voidable at the option of the purchaser if the representative of any person selling or administering such course of study, or the representative of such firm, association, partnership or corporation was not the holder of a permit as required by this section at the time that such representative negotiated the contract for or sold such course.

In any written contract or agreement for a course of study with a correspondence school there shall be included on the first page of such agreement or contract in 14-point boldface print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the school should be directed to the Director of Education, Department of Education, Sacramento, California, 95814."

In addition, such written contracts or agreements shall specify, on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the correspondence school in numbers or letters, or both, which are of larger print than the rest of the contract or agreement.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the State Board of Education

made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever that the Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made, any evaluation, recognition, accreditation or endorsement of any correspondence course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section and for any salesman, agent or representative of such individual to expressly or impliedly represent by any means whatever that the issuance of the permit constitutes an assurance by the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in membership in any union or similar organization or will result in employment or personal earnings for the student.

The issuance of a permit under this section, and the possession thereof, by an individual, shall be evidence only that the surety bond prescribed by this section has been issued with respect to the possessor and that he has submitted satisfactory evidence of good moral character.

94314. No person, either on his own behalf or as the representative of any privately conducted resident school located within or outside of California or of any private person, firm, association, partnership or corporation whatever, shall, by personal contact with any person in California at a place away from the instructional site of the school, solicit or sell enrollment in any course of study leading to an educational, technological, professional, or vocational objective beyond high school, to or for adults, for a remuneration or other consideration to be provided for such course unless he holds a valid permit to engage in such activity issued by the State Board of Education. The State Board of Education may delegate its authority to issue such permit to the State Superintendent of Public Instruction.

The State Board of Education, or the State Superintendent of Public Instruction, if such authority has been delegated by the State Board of Education, shall promptly cause to be prepared, and shall, pursuant to this section, issue appropriate permits authorizing the holder to engage in the solicitation of sales and the selling of such courses of study away from the premises of the school.

No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

A permit shall be valid for the calendar year in which it is issued unless sooner revoked or suspended by the State Board of Education

for fraud or misrepresentation in connection with the solicitation for the sale or the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he represents which, if in existence at the time the permit was issued would have been ground for denial of the permit.

The application for a permit shall be made by the person who proposes to engage in the activities of soliciting or selling in those cases where such activities are to be conducted in the person's own behalf. Where the person for whom the issuance of a permit is sought is to engage in the activities as a representative, the application shall be made by the school or other person, firm, association, partnership, or corporation for and on behalf of the person to serve as its representative. Applications shall be submitted on forms to be furnished by the Department of Education. The original application, renewal applications when renewed on a continuous basis, and applications for additional sales permits shall be accompanied by an application fee in an amount established pursuant to subdivision (f) of Section 94315. Fees required by this section are hereby appropriated in augmentation of the appropriation for support of the Department of Education current at the date of issuance of the State Controller's receipt thereof as may be designated by the Department of Education prior to their deposit in the State Treasury and shall be nonrefundable irrespective of whether or not a permit is subsequently issued.

The application shall be accompanied by a bond executed by good and sufficient sureties making provision for full indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the school or other person, firm, association, partnership, or corporation, or by the person for whom issuance of the permit is sought, and may extend to cover either an individual such person or to provide blanket coverage to all persons to be engaged as representatives of a school or other person, firm, association, partnership or corporation in the solicitation for sale or the sale of courses of study in California. Any bond shall provide for liability in the penal sum of one thousand dollars (\$1,000) for each representative to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the State Board of Education.

The permittee shall carry the permit with him for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school.

Any contract for or in connection with a course of study with a school, or representative thereof, shall be voidable at the option of the purchaser if the representative of any person selling or administering such course of study, or the representative of such

firm, association, partnership or corporation was not the holder of a permit as required by this section at the time that such representative negotiated the contract for or sold such course.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study away from the premises of the school shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the State Board of Education made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever that the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made, any evaluation, recognition, accreditation or endorsement of any course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent by any means whatever that the issuance of the permit constitutes an assurance by the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

The issuance of a permit under this section, and the possession thereof, by an individual, shall be evidence only that the surety bond prescribed by this section has been issued with respect to the possessor and that he has submitted satisfactory evidence of good moral character.

94315. The Superintendent of Public Instruction shall charge, commencing during the 1974-75 fiscal year, the fees listed herein for the approval of private institutions operating under this division. For ensuing fiscal years, the Superintendent of Public Instruction, with the advice of the council, may annually increase such fees by an amount which reflects an increase in the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The Superintendent of Public Instruction shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this division:

- (a) For approval to issue degrees pursuant to paragraph 2 of

subdivision (a) of Section 94310:

- (1) Five hundred dollars (\$500) for an original application.
- (2) One hundred fifty dollars (\$150) annually during the duration of the approval period renewal of such application.
- (3) One hundred dollars (\$100) for any of the following: approval to grant additional degrees, approval of additional major fields of study in approved degrees, for change of location, or auxiliary facilities in a new location.
- (4) One hundred fifty dollars (\$150) change of ownership.
- (5) Eight dollars (\$8) evaluation and approval of directors, administrators, and instructors subsequent to the original application.

(b) For filing an original affidavit and appraisal and a copy of the full disclosure required to issue degrees pursuant to paragraph 3 of subdivision (a) of Section 94310, the original affidavit shall be accompanied by a three-hundred-dollar (\$300) fee. Each annual affidavit filed thereafter pursuant to Section 94316 shall be accompanied by a one-hundred-fifty-dollar (\$150) renewal fee.

(c) For filing affidavits to meet the requirements of subdivision (d) of Section 94310, the original affidavit shall be accompanied by a one-hundred-fifty-dollar (\$150) fee. Affidavits filed annually thereafter pursuant to subdivision (d) of Section 94310 shall each be accompanied by one hundred fifty dollars (\$150).

(d) For approval to issue diplomas or offer courses of education or training pursuant to Section 94312:

- (1) Three hundred dollars (\$300) for an original application.
- (2) One hundred fifty dollars (\$150) for a renewal of a temporary approval or annual approval of courses.
- (3) One hundred dollars (\$100) for approval of any of the following: change of location, major change or revisions in curriculum of course, auxiliary facilities in a new location, or additional courses.
- (4) One hundred fifty dollars (\$150) for change of ownership.
- (5) Eight dollars (\$8) for evaluation and approval of directors, administrators, and instructors subsequent to the original application.

(e) For approval of an applicant to solicit or sell correspondence courses of study pursuant to Section 94313, the original application shall be accompanied by a twenty-dollar (\$20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars (\$15). Application for additional sales permits shall be accompanied by a fifteen-dollar (\$15) fee.

(f) For approval of an applicant to solicit or sell enrollment in courses of study at a resident school away from the instructional site of such institution pursuant to Section 94314, the original application shall be accompanied by a twenty-dollar (\$20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars (\$15). Applications for additional sales permits shall be accompanied by a fifteen-dollar (\$15) fee.

(g) For programs for training medical assistants, in addition to such other fees as may be required, a fee of not to exceed seventy-five dollars (\$75) annually to support the contracted consulting services of the Department of Health authorized by Section 94312.

“Auxiliary facilities” as used in this section shall be defined pursuant to regulations adopted by the Director of Education.

94316. Every corporation meeting the requirements of paragraph (3) of subdivision (a) of Section 29023, issuing or conferring degrees or honorary degrees, shall between the 1st and 31st days of January of each year, commencing on January 1, 1971, file with the Superintendent of Public Instruction the following affidavits:

(a) An affidavit by the president or other head setting forth the corporation’s financial statement covering the full preceding year.

(b) An affidavit by the president or other head setting forth the following information covering the preceding calendar year:

(1) All names, whether real or fictitious, of the person, firm, association, partnership or corporation under which it has done and is doing business.

(2) The address, including city and street, of every place of doing business of the person, firm, association, partnership or corporation, within the State of California.

(3) The address, including city and street, of the location of the records of the person, firm, association, partnership or corporation, and the name and address, including city and street, of the custodian of such records.

(4) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership or corporation.

(5) That the records required by Section 94317 of this article are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in the affidavit filed pursuant to subdivision (b) shall be reported to the Superintendent of Public Instruction within 20 days of such change.

94317. Any person, firm, association, partnership or corporation, which issues or confers degrees or diplomas or honorary degrees or honorary diplomas shall maintain current records for a period of not less than three years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the Superintendent of Public Instruction or the Attorney General showing the following:

(a) The names and addresses, both local and home, including city and street, of each of its students.

(b) The courses of study offered by the institution.

(c) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each.

(d) The degrees or diplomas and honorary degrees or honorary

diplomas granted; to whom granted; the date of granting; together with the curricula upon which the diplomas and degrees were based.

(e) The Superintendent of Public Instruction shall publish annually for public distribution, and may charge a fee to cover the cost of compilation and printing, a list of all schools of record conferring diplomas and degrees, or otherwise of record. The list shall contain the names and addresses of such institutions together with a notation of the statute section or sections under which the institution has become of record.

94318. No person, firm, association, partnership, or corporation owning or representing any private school offering training to adults shall:

(a) Make or cause to be made, any statement, or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if such person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate or misleading.

(b) Promise or guarantee employment utilizing information, training or skill purported to be provided or otherwise enhanced by a course.

(c) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading.

(d) Advertise, or indicate in any promotional material, that correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or courses of study are offered by correspondence or home study.

(e) Advertise, or indicate in any promotional material, that resident instruction, or courses of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(f) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising which fails to identify the school.

Nothing contained in this section shall prohibit a private school and a bona fide employer from jointly advertising in "help wanted" columns of a magazine, newspaper, or other publication if all of the following conditions are met:

(1) There is a written agreement between the employer and the private school that the employer will hire at least 25 percent of the graduates of the private school trained in the skills being advertised as wanted, that such skills are clearly identified in the advertisement, and that the written agreement between the employer and the private school shall be deemed made expressly for the benefit of students recruited by the advertisement;

(2) The written agreement between the employer and the private school shall be displayed on the grounds of the private school

where it is visually accessible to all students; and, upon the request of a student registering in the school, a copy of the written agreement shall be made available;

(3) There is a recognized shortage of persons with the skills advertised as wanted in the circulation area of the publication in which the advertisement appears;

(4) Any additional unique qualifications and conditions other than possession of advertised skill required of applicants are listed in the advertisement;

(5) There is an anticipated need for persons trained in such skills at the end of the private school's regular training period for the skills;

(6) The advertisement clearly identifies the school and the employer as separate entities and gives the complete address of both; and

(7) The advertisement clearly indicates that graduation from the school does not guarantee employment by the employer named in the advertisement.

(g) Advertise in such a way as to lead the reader to the mistaken belief that an offer for employment is being made.

(h) Advertise, or use the word "accredited" or "approved" with respect to itself or the course or courses which it offers unless the word is immediately followed by the complete name of the organization by which it is accredited or approved.

(i) Represent in any manner that completion of the training offered will result in membership in any union or similar organization of any type.

Any person, firm, association, partnership, or corporation willfully violating any provisions of this section shall be unable to enforce any contract or agreement arising from the transaction in which the violation occurred. In addition, in the event of such violation, said person, firm, association, partnership, or corporation shall refund to the student any tuition or fees that have been collected from the student. The student shall be awarded, in addition to the foregoing, any damages that he has sustained, and may be awarded treble damages, in the discretion of the court.

The judgment rendered in any action maintained for the recovery of fees or damages sustained in accordance with the terms of this section or the judgment rendered in any action defended by a student, shall, if the student is the prevailing party, include court costs, including a reasonable attorney's fee fixed by the court.

94319. No person, firm, association, partnership or corporation may sell, barter, offer to sell or barter, or conspire to sell or barter, any diploma or degree as defined in this article.

94320. No person, firm, association, partnership or corporation may buy, obtain by barter, attempt to buy or obtain by barter, or conspire to obtain by barter or buy, any diploma or degree as defined in this article.

94321. No person, firm, association, partnership or corporation may use in connection with any business, trade, profession or

occupation, or attempt to use in connection with any business, trade, profession or occupation, or conspire to use in connection with any business, trade, profession or occupation, any degree, diploma, certificate, transcript or document, as defined in this article, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered or found.

94322. No person, firm, association, partnership or corporation may:

(a) Use in connection with a business, trade, profession or occupation, or give or receive;

(b) Attempt to use in connection with a business, trade, profession or occupation, or attempt to give or receive;

(c) Conspire to use in connection with a business, trade, profession or occupation, or conspire to give or receive; any diploma or degree evidencing the undertaking or completion of any course of study or scholastic achievement attained if, in fact, said course of study has not been undertaken nor completed or if such scholastic achievement has not been attained.

94323. No person, firm, association, partnership, or corporation shall use or allow the use of any reproduction or facsimile of the Great Seal of the state on any diploma.

This section does not apply to the University of California, or to the California State University and Colleges, any community college or to any school which is part of the public school system.

94324. Any person, firm, association, partnership or corporation willfully violating any provision of Section 94319, 94320, 94321, 94322, or 94323 is guilty of a felony and is punishable by imprisonment in the state prison not exceeding five years or by a fine of not less than one thousand dollars (\$1,000) or by both such fine and imprisonment. Any person, firm, association, partnership or corporation willfully violating any other provision of this article is punishable, for a first offense, by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars (\$500) or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison not exceeding five years or by fine not less than one thousand dollars (\$1,000) or by both such fine and imprisonment.

94325. If any section, subsection, sentence, clause or phrase of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The Legislature hereby declares that it would have passed this article, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

94326. (a) The Superintendent of Public Instruction and the Attorney General shall take cognizance of the fact that both have definite duties and responsibilities under the provisions of this article.

(b) The Superintendent of Public Instruction shall report any information concerning possible violations of this article to the Attorney General.

(c) The Attorney General shall make such investigations as are necessary to determine whether or not there has been compliance with the provisions of this article.

94327. The Attorney General is hereby authorized to take such actions as are necessary, including the obtaining of injunctive relief, to enforce the provisions of this article.

#### CHAPTER 4. CONSOLIDATION OF PRIVATE COLLEGES

94400. Whenever any benevolent, religious, or fraternal organization or society, having a grand lodge, assembly, conference, or other legislative or representative head in the state, and having two or more colleges or institutions of higher education under its patronage, desires, for the purpose of greater efficiency and simplicity in the administration of its educational interests, to consolidate the institutions under one management, the organization or society may consolidate the institutions under one management, pursuant to this article.

94401. The grand lodge, assembly, conference, or other legislative or representative head having authorized a consolidation of its institutions, a new corporation shall be formed.

94402. The board of trustees of the new corporation shall at first consist of the persons constituting the boards of trustees of the several institutions consolidating, and others. The number of trustees shall not exceed 45. The board of trustees shall be so classified that the term of office of one-third of its members expires each year, and unless otherwise provided in the articles of incorporation or bylaws, the successors of the trustees, as their terms expire shall be elected by the grand lodge, assembly, conference, or other legislative or representative head, at its annual meeting.

94403. After the two or more colleges or institutions of higher education under the patronage of any benevolent, religious, or fraternal organization or society, having a grand lodge, assembly, conference, or other legislative or representative head in the state have become consolidated, the board of trustees of the new corporation may be reduced in number after it has transacted the business of the corporation for a period of five years after the consolidation.

94404. Unless other provision is made in the articles of incorporation the number of trustees shall be reduced by the grand lodge, assembly, conference, or other legislative or representative head of the colleges or institutions of higher education. At any annual session of the grand lodge, assembly, conference, or other legislative or representative head, there shall be dropped from the number of trustees to be elected at that session such a number of trustees as those present at the session determine, except that at no time shall

the number of trustees composing the board be less than 15.

94405. Provision may be made in the articles of incorporation, in addition to any other matters required by law, for the number of trustees, for the method of nominating and electing trustees, and special qualifications, if any, required of persons to be elected or of any particular number of such persons. If not made in the articles of incorporation, such methods and qualifications may be set forth in the bylaws.

94406. Bylaws may be adopted and amended by the trustees except as otherwise provided in the articles or the bylaws. The bylaws may set forth the particular officers or persons in the grand lodge, conference, assembly, or other legislative or representative head entitled to vote as members of the corporation, and also the manner and method by which the voting is had. The bylaws may limit or restrict the power of the trustees to adopt, amend, or repeal bylaws. After the limitation or restriction is made it shall be complied with unless it is removed with the consent of the officers or persons entitled to vote as members. Where applicable the provisions of Sections 9400 to 9404, inclusive, of the Corporations Code apply to the bylaws.

94407. Except as otherwise provided in Section 94406, in the articles of incorporation, or the bylaws, the board of trustees of the new corporation have all of the powers granted to boards of trustees by and enumerated in Section 9501 of the Corporations Code, and in Sections 19803 to 19808, inclusive.

94408. The board of trustees of the new corporation shall report annually to the grand lodge, conference, assembly, or other legislative or representative head controlling it, the condition of affairs of the corporation, and the amount and manner of its receipts and expenditures.

94409. The several boards of trustees of the consolidating institutions shall transfer all property, real and personal, held by them, to the new corporation, together with all powers, privileges, and authority conferred upon or enjoyed by them under their respective charters or acts of incorporation. The new corporation receiving the property shall assume all indebtedness and liabilities of the consolidating institutions, but shall not transfer the property from one location to another, except by an affirmative vote of not less than three-fourths of the board of trustees of the new corporation, nor divert specific grants, donations, or bequests from the purposes for which the grants, donations, or bequests were made. After the boards of trustees have conveyed the property, real and personal, of the various institutions to the new corporation, and the property has been accepted by the new corporation, the franchises held by the consolidating corporations shall cease, and the corporations are dissolved.

## CHAPTER 5. EMINENT DOMAIN

94500. Any educational institution of collegiate grade within this state not conducted for profit may acquire by eminent domain any property necessary to carry out any of its powers or functions.

## DIVISION 14. MISCELLANEOUS

## PART 65. MISCELLANEOUS

## CHAPTER 1. WESTERN REGIONAL EDUCATION COMPACT

## Article 1. The Compact

99000. The Governor is hereby authorized and directed to execute a compact on behalf of this state with each or all of the 11 western states and the States of Alaska and Hawaii for the purpose of cooperating with such states in the formation of a Western Interstate Commission for Higher Education. Notice of intention to withdraw from such compact shall be executed and transmitted by the Governor.

99001. The form and contents of such compact shall be substantially as provided in this section and the effect of its provisions shall be interpreted and administered in conformity with the provisions of this chapter.

## Western Regional Higher Education Compact

The contracting states do hereby agree as follows:

## Article 1

WHEREAS, The future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, Many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

WHEREAS, It is believed that the Western States, or groups of such states within the region, co-operatively can provide acceptable and efficient educational facilities to meet the needs of the region and of the students thereof; now, therefore,

The States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii, do hereby covenant and agree as follows:

## Article 2

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful co-operation in carrying out all the purposes of this compact.

## Article 3

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the commission. Said commission shall be a body corporate of each compacting state and territory and an agency thereof. The commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

## Article 4

The commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each commissioner shall be four years; provided, however, that the first three commissioners shall be appointed as follows; one for two years, one for three years, and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

## Article 5

Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transacting of business.

Each compacting state and territory represented at any meeting of the commission is entitled to one vote.

## Article 6

The commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

## Article 7

The commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The commission may elect such committees as it deems necessary for the carrying out of its functions.

The commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the region.

On or before the fifteenth day of January of each year, the commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his designated representative. The commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The commission shall provide for an independent annual audit.

## Article 8

It shall be the duty of the commission to enter into such contractual agreements with any institutions in the region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the commission to

provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the commission may enter into contractual agreements—

(a) With the governing authority of any educational institution in the region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) With the governing authority of any educational institution in the region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the region providing the desired services and facilities, upon such terms and conditions as the commission may prescribe.

It shall be the duty of the commission to undertake studies of needs for professional and graduate educational facilities in the region, the resources for meeting such needs, and the long-range effects of the compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the commission may confer with any national or regional planning body which may be established. The commission shall draft and recommend to the governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the region.

For the purposes of this compact the word "region" shall be construed to mean the geographical limits of the several compacting states and territories.

#### Article 9

The operating costs of the commission shall be apportioned equally among the compacting states and territories.

#### Article 10

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the States or Territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska, and Hawaii have duly adopted it prior to July 1, 1953. This compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

## Article 11

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the commission.

## Article 12

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by: (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the commission.

99002. In furtherance of the provisions contained in the compact, there shall be three commissioners from the State of California, appointed by the Governor by and with the advice and consent of the Senate. The qualifications and terms of the commissioners shall be in accordance with Article 4 of the compact. A commissioner shall hold office until his successor is appointed and qualified but such successor's term shall expire four years from the legal date of expiration of the term of his predecessor. Any commissioner may be removed from office by the Governor upon charges and after a hearing. The term of any commissioner who ceases to hold the required qualifications shall terminate when a successor may be duly appointed. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term in the same

manner as for a full term appointment.

Each commissioner shall receive his necessary travel expenses incurred in the performance of his official duties in behalf of the commission.

99003. All officers of the state are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the compact in every particular; it being hereby declared to be the policy of this state to perform and carry out the compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government or administration of the state are hereby authorized and directed at convenient times and upon request of the commission to furnish the commission with information and data possessed by them and to aid such commission by any means lying within their legal rights.

99004. The commission shall keep accurate accounts of its activities and shall report to the Governor and the Legislature on or before the 31st day of December in each year, setting forth in detail the transactions conducted by it during that calendar year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes which may be necessary to carry out the intent and purposes of the compact between the signatory states.

99005. When the Governor on behalf of the state executes the compact, he shall attach his signature thereto under a recital that such compact is executed pursuant to the provisions of this chapter, subject to the limitations and qualifications contained in this chapter in aid and furtherance thereof.

## CHAPTER 2. PUBLIC SERVICE INTERNSHIP PROGRAM

99100. For purposes of the Public Service Internship Program, a public internship is a student assignment with a governmental jurisdiction or public agency, the purpose of which is to provide the student with a learning experience designed to provide exposure to and understanding of the environment and tasks of government and of particular agencies and functions. In contrast to a specific job or work task, the internship affords creative opportunities for the intern to participate in various phases of a planned training program developed jointly and implemented cooperatively by governmental agencies and institutions of higher learning.

99101. The objectives of the Public Service Internship Program are the following:

(a) To acquaint students with the opportunities for challenging careers in public service and to stimulate the interests of students in particular functions and agencies.

(b) To enable public jurisdictions to attract students of high ability and achievement potential to government and thereby improve the overall quality of the public service.

(c) To induce students to seek careers in fields of public employment where critical shortages exist and where future personnel needs will be great.

(d) To develop closer relationships between educational institutions and government agencies of the state by fostering better understanding of each jurisdiction's respective problems and needs.

(e) To extend and improve existing legislative and administrative internship programs throughout the state, programs which have already made a major contribution to the quality of state and local government.

(f) To cooperate with agencies of the federal government and quasi-governmental and private organizations in building more effective state and local internship and training programs.

99102. The provisions of this chapter shall remain in effect until June 30, 1976, and shall have no force or effect after that date.

99103. The Public Service Internship Program shall be administered by the Advisory Coordinating Council on Public Personnel Management.

99104. The council shall, within the provisions of this division establish the policies and standards for administration of the internship program.

99105. The council shall appoint such staff as may be necessary to carry out the program.

99106. The council shall maintain a systematic and continuous inventory and evaluation of all internships, of the type described by this division, and related preservice training opportunities within the state. The inventory shall be published and made available to educational program counselors, public agency training personnel and others who would directly benefit in their occupational capacities.

99107. The council shall encourage and support academic institutions in collaboration with governmental agencies in developing interinstitutional and regional cooperative programs in geographical areas where collaboration will improve the overall governmental-academic institution effort.

99108. The council shall be the designated state agency for accepting federal grants as well as contributions from private foundations and other sources for the state and local internships and related public service training activities. Nothing in this division shall preclude any state or local agency from soliciting or receiving public or private grants or contributions to finance internship programs.

99109. The Public Service Internship Program is designed to cover the following persons and agencies:

(a) All academic and professional disciplines and all governmental functions and activities where there is a need for academically trained manpower.

(b) All accredited private and public institutions of higher learning in California authorized to give the associate of arts degree, the baccalaureate degree, advanced postgraduate and professional degrees.

(c) All branches, departments and agencies of the State of California; all counties, municipalities, special districts or departments thereof; and any other governmental units substantially financed by public funds.

(d) Any department or agency of the federal government that agrees to the provisions of this program and which bears its proportionate share of the total cost of the program.

99110. There shall be internships designed for prospective associate of arts degree holders in which arrangements normally will be made between a community college and a governmental agency for the establishment of internship programs and for the education and training of students for subprofessional positions.

99111. There shall be internships designed for prospective baccalaureate degree holders in which arrangements normally will be made between a four-year college and a governmental agency for the education and training of students for positions which require the baccalaureate degree.

99112. There shall be internships designed for holders of the baccalaureate degree.

99113. There shall be internships designed for candidates for advanced postgraduate degrees.

99114. The internships may be on a part-time or full-time basis.

99115. The type and level of education and training shall be based upon the academic advancement, work experience, and maturity of the intern.

99116. The establishment and operation of this Public Service Internship Program shall in no way supplant or interfere with presently established state and local internship programs or programs which may be established unless academic institutions and public agencies wish to be involved in new arrangements.

99117. Any educational institution or school or department thereof designated in subdivision (b) of Section 99109 may participate in the education and training of interns in cooperation with government agencies.

99118. Any governmental jurisdiction, department or agency may establish an internship program designed to provide an appropriate training environment and experience for interns.

99119. Internship programs shall be established and approved under standards set forth by the Advisory Coordinating Council on Public Personnel Management as provided in this chapter.

99120. Any student in good academic standing who is enrolled in a department, school, or campuswide program of an academic institution with an approved internship program may be a candidate for an internship.

99121. Any intern selected by a government agency must maintain an academic affiliation with a college or university during the period of the internship.

99122. All costs for administering the program on a statewide

basis shall be borne by the state except to the extent federal funds are available therefor.

99123. Stipends for internships shall be borne by the jurisdiction or agency employing the intern.

99124. In jurisdictions which do not now employ interns, the council, for the purposes of initiating a program, may, to the extent federal funds are available therefor, pay the stipends of interns for an initial period not to exceed three years, the number of interns to be so financed to be determined by the council.

99125. Costs for the instruction and academic supervision of interns shall be borne by colleges and universities.

99126. Educational institutions may apply to the council for state funds, if such funds are appropriated by the Legislature, to finance experimental, or innovative, programs including those which involve interinstitutional cooperation. Educational institutions may also apply for federal funds, to the extent they are available, for such purpose.

99127. The council may establish the salary limits for each category of intern stipends to be financed by grants administered by the council.

SEC. 3. It is the intent of the Legislature that neither the state nor any local agency shall incur any additional expense because of the enactment of this act. To that end, notwithstanding any provision of this act which specifies that a particular form be used, any form which complied with the prior version of the Education Code may be used until the supplies of such forms run out, at which time the forms specified by this act shall be used.

SEC. 4. Any section of any act enacted in 1976 at the 1975-76 Regular Session of the Legislature which amends, adds, or repeals any section of the Education Code and which is chaptered either before or after this act is chaptered shall prevail over this act.

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#### CHAPTER 1011

An act to amend Sections 1, 1266, 1400, 1800, 1870, 1885, 5231, 8092, 10500, 10501, 10502, 10505, 10506, 10507, 14057, 15104, 16044, 16080, 16272, 23801, 24806, 24810, 24813, 32040, 32223, 37040, 37109, 39150, 39214, 39230, 39252, 41716, 41750, 41858, 41882, 41884, 41885, 41886, 41909, 42904, 44065, 44316, 44435, 44978, 45208, 48810, 48904, 60043, 69642, 74503, 74506, 74507, 76005, 76130, 76131, 76340, 81006, 81039, 84309, 84325, 84362, 84503, 84523, 84817, 84838, 84839, 85132, 85135, 87408, 87464, 87465, 87484, 87486, 87684, to amend the heading of Chapter 21 (commencing with Section 24000) of Part 13 of Division 1 of Title 1, the heading of Article 1 (commencing with Section

74000) of Chapter 1 of Part 46 of Division 7 of Title 3, and the heading Article 2 (commencing with Section 76020) of Chapter 1 of Part 47 of Division 7 of Title 3 of, to amend and renumber Sections 58600, 58601, 58602, 58603, 58604, 58605, 66021, 66022, 74525, and 82321.5 of, to add Sections 14002, 14070, 39383, 58600, 58604, 58606, 78827, 84501, 87409, and 88108 of, to add an article heading immediately preceding Section 19330 of, to add Article 3 (commencing with Section 40070 to Chapter 6 of Part 23 of Division 3 of Title 2 of, and to repeal Sections 14002, 33191, 33192, 39213, 39231, 41380, 56162, 74369, 74524, 74526, 78413, 82321, 87479, 87621, 88108, 89243, 89244, 89245, and 89757, of the Education Code, as proposed by Assembly Bill No. 3100, and to add Section 5 to, Assembly Bill No. 3100, relating to education.

[Approved by Governor September 16, 1976. Filed with  
Secretary of State September 17, 1976.]

Note: See Stats. 1976, Ch. 1010.