

ALBANY UNIFIED SCHOOL DISTRICT  
BOARD OF EDUCATION

*The mission of Albany Unified School District is to provide excellent public education that empowers all to achieve their fullest potential as productive citizens. AUSD is committed to creating comprehensive learning opportunities in a safe, supportive, and collaborative environment, addressing the individual needs of each student.*

REGULAR MEETING

**ALBANY CITY HALL**

1000 San Pablo  
Albany, CA 94706

**TUESDAY**  
May 1, 2012

**A G E N D A**

<b><u>Meeting Norms</u></b>	
<ol style="list-style-type: none"> <li>1. Maintain a focus on what is best for our students.</li> <li>2. Show respect (never dismiss/devalue others).</li> <li>3. Be willing to compromise.</li> <li>4. Disagree (if necessary) agreeably.</li> <li>5. Make a commitment to effective deliberation, each one listening with an open mind while others are allowed to express their points of view.</li> <li>6. Participate by building on the thoughts of a fellow Board member.</li> <li>7. Make a commitment to open communication and honesty; no surprises.</li> <li>8. Commit the time necessary to govern effectively.</li> <li>9. Be collaborative.</li> <li>10. Maintain confidentiality (which leads to the building of trust).</li> <li>11. Look upon history as lessons learned; focus on the present and the future.</li> </ol>	<p><b>I. <u>OPENING BUSINESS</u> <span style="float: right;"><u>5:00 p.m.</u></span></b></p> <p>A) Call to Order B) Roll Call C) Identify Closed Session Pursuant to Agenda Section III Below</p> <p><b>II. <u>PUBLIC COMMENT PERIOD FOR CLOSED SESSION ITEMS</u></b> <i>General public comment on any Closed Session item will be heard. The Board may limit comments to no more than three (3) minutes.</i></p> <p><b>III. <u>CLOSED SESSION</u> <span style="float: right;"><u>5:05 p.m.</u></span></b></p> <p>A) With respect to every item of business to be discussed in Closed Session pursuant to Government Code Section 54957: <i>Superintendent's Contract</i></p> <p>B) With respect to every item of business to be discussed in Closed Session pursuant to Education Code Section 35146: <i>Students</i></p> <p>C) With respect to every item of business to be discussed in Closed Session pursuant to Government Code Section 54957.6: <i>Conference with Labor Negotiator</i> (Superintendent Marla Stephenson, District Representative), Regarding Negotiations as pertains to:</p> <ul style="list-style-type: none"> <li>• California School Employees Association (CSEA)</li> <li>• Albany Teachers Association (ATA)</li> <li>• SEIU Local 1021</li> </ul>

**IV. OPEN SESSION****7:00 p.m.***(25 mins.)**Depending upon completion of Closed Session items, the Board of Education intends to convene to Open Session at 7:00 p.m. to conduct the remainder of its meeting, reserving the right to return to Closed Session at any time.*

- A) Reconvene to Open Session
- B) Roll Call
- C) Pledge of Allegiance
- D) Report of Action Taken in Closed Session
- E) Recognition of Volunteers
- F) Recognition of Measure E Community Oversight Committee Members
- G) Approval of Agenda
- H) Approval of Consent Calendar

*(The Consent Calendar includes routine items that may be handled with one action. Board Members may request any item be removed from the Consent Calendar without formal action.)*

1. Board of Education Minutes
  - a) Approve Minutes of the April 17, 2012 Regular Meeting-----*(pg.4)*
2. Personnel-----*(pg.14)*
  - a) Certificated Personnel Assignment Order
    - 1) Amendment
      - a. Chair, Science
    - 2) Extra Assignment
      - a. Chair, Science
    - 3) Leave
      - a. Teacher
    - 4) Separation of Service
      - a. Teacher
  - b) Classified Personnel Assignment Order
    - 1) New Hire
      - a. Custodian
      - b. Para-educator, Substitute
    - 2) Uncompensated Service
      - a. Volunteer
3. Student Services
  - a) Quarterly Field Trip Report-----*(pg.17)*

**V. STUDENT MEMBER REPORT****7:25 p.m.***(5 mins.)***VI. STAFF REPORTS****7:30 p.m.**

- A) Measure E Community Oversight Committee Annual Report-----*(pg.18)*  
*(10 mins.)*

**VII. PERSONS TO ADDRESS THE BOARD ON MATTERS NOT ON THE AGENDA**

**7:40 p.m.**

*(5 mins.)*

*Board practice limits each speaker to no more than three (3) minutes. The Brown Act limits Board ability to discuss or act on items which are not on the agenda; therefore, such items may be referred to staff for comment or for consideration on a future agenda.*

**VIII. REVIEW AND DISCUSSION ITEM**

**7:45 p.m.**

A) *Board Conversation –Strategic Plan Update –Progress & Next Steps---(pg.42)  
(under separate cover)  
(2 hrs.)*

B) *Potential November 2012 Ballot Measures  
Designed to Fund Public Education -----(pg.43)  
(10 mins.)*

**IX. BOARD AND SUPERINTENDENT COMMENTS**

**9:55 p.m.**

*(5 mins.)*

**X. FUTURE AGENDA ITEMS**

- Technology Committee Update May
- Employee Recognition May
- Single School Plans June
- Adopt Budget June
- Williams Quarterly Report June
- Annual Field Trip Report August
- Consolidated App (delayed by State)

**XII. FUTURE BOARD MEETINGS**

1. Tuesday, May 15, 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany
2. Tuesday, June 5, 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany
3. Tuesday, June 19, , 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany

*Please note that the Board of Education is in recess in July.*

**XII. ADJOURNMENT**

The Board of Education meeting packet is available for public inspection at: 1) Albany City Hall, 1000 San Pablo Avenue; 2) Albany Public Library, 1247 Marin Avenue; 3) Albany Unified School District, 1051 Monroe Street; and is available on the Albany Unified School District web site: [www.ausdk12.org](http://www.ausdk12.org).

If you provide your name and/or address when speaking before the Board of Education, it may become a part of the official public record and the official minutes will be published on the Internet.

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact the Superintendent's Office at 510-558-3766. Notification must be give forty-eight (48) hours prior to the meeting to make reasonable arrangements for accessibility (28 CFR 35.102.104 ADA Title II).



**Albany Unified School District**

**ALBANY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION**

1051 Monroe Street  
Albany, CA 94706

**MINUTES FOR REGULAR MEETING**

April 17, 2012

*Albany City Hall  
1000 San Pablo Avenue  
Albany, CA 94706*

**I. OPENING BUSINESS 6:30 p.m.**

*A) Call to Order*

President Black called the meeting to order at 6:35 p.m.

*B) Roll Call*

PRESENT: President Black, Vice President Knight, Member Low, Member Rosenbaum, and Member Maris.

STAFF: Superintendent Stephenson and Marsha Brown, Director III Student Services.

EXCUSED: Associate Superintendent Harden

*C) Identify Closed Session Pursuant to Section III Below*

**II. PUBLIC COMMENT PERIOD FOR CLOSED SESSION ITEMS**

There being no business under this item, the Board moved to the next item on the agenda.

**III. CLOSED SESSION**

- A) With respect to every item of business to be discussed in Closed Session pursuant to Government Code Section 54957: *Superintendent's Contract*
- B) With respect to every item of business to be discussed in Closed Session pursuant to Education Code Section 35146: *Students*
- C) With respect to every item of business to be discussed in Closed Session pursuant to Government Code Section 54957.6: *Conference with Labor Negotiator* (Superintendent Marla Stephenson, District Representative), Regarding Negotiations as pertains to:
  - California School Employees Association (CSEA)
  - Albany Teachers Association (ATA)
    - i. Negotiations*
  - SEIU Local 1021

**IV. OPEN SESSION**

*A) Reconvene to Open Session*

*B) Roll Call*

PRESENT: President Black, Vice President Knight, Member Low, Member Rosenbaum, Member Maris, and Student Board Member Yoon.

EXCUSED: Associate Superintendent Harden and Student Board Member Kim.

STAFF: Superintendent Stephenson; Marsha Brown, Director III Student Services; and Don Albright, Facilities Supervisor.

There being no further business under this item, the Board moved to the next item on the agenda.

*C) Pledge of Allegiance*

The Board and members of the public recited the Pledge of Allegiance.

There being no further business under this item, the Board moved to the next item on the agenda.

*D) Report of Action Taken in Closed Session*

President Black reported that no action was taken in closed session.

There being no further business under this item, the Board moved to the next item on the agenda.

*E) Approval of Albany Unified School District Board of Education Agenda for the April 17, 2012 Meeting*

*President Black requested a motion to Approve: E) Albany Unified School District Board of Education Agenda for the April 17, 2012 meeting.*

*Motion by Member Low, seconded by Member Rosenbaum to Approve: E) Albany Unified School District Board of Education Agenda for the April 17, 2012 meeting.*

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

*F) Approval of Consent Calendar*

*(The Consent Calendar includes routine items that may be handled with one action. Board Members may request any item be removed from the Consent Calendar without formal action.)*

1. Board of Education Minutes

1. *Approve Minutes of the April 3, 2012 Regular Meeting*

2. Personnel

a. Certificated Personnel Assignment Order

1) Leave

a. Counselor

b. Teacher

2) New Hire

a. Teacher Substitute, Long Term

3) Separation of Service

a. Teacher

b. Classified Personnel Assignment Order

1) Amendment

- a. Coach, Track, Assist
- b. Coach, Track, Head
- c. Custodian
- d. Para-educator, Wrld lang

2) New Hire

- a. Academic Coach
- b. Lifeguard
- c. Para-educator, Substitute
- d. Swim Instructor
- e. Teacher
- f. Transportation Driver
- g. Yard Aide

3) Separation of Service

- a. Para-educator
- b. School Psychologist

4) Uncompensated Service

- a. Volunteer

3. Business and Operations

- a) *March Warrants*
- b) *Albany Elementary Giving Campaign Funding Commitment Letter*
- c) *Accept Albany Education Foundation Donation*

4. Student Services

- a) *Receive the Valenzuela/California High School Exit Exam Lawsuit Settlement Quarterly Report on Williams Uniform Complaints*
- b) *Approve the Extended Field Trip Request for the Albany High School Ocean Science Bowl Team to travel to Baltimore, Maryland to compete in the National Ocean Science Bowl Competition*
- c) *Ratify the Independent Contractor Agreement - Tarah Fleming*

5. Special Education

- a. *Approve Independent Contractor Agreement – Patricia Gillian, Audiologist*

Member Maris requested and received clarification regarding SELPA. Superintendent Stephenson noted that Associate Director, Laurie Harden provided the following clarification that all 2011-12 SELPA payments to districts are paid from Fund 10. AUSD is still receiving 2010-11 funds, which were set up as payables and are paid from Fund 01.

*President Black requested a motion to Approve: (F) Consent Calendar.*

*Motion by Member Rosenbaum, seconded by Member Low to Approve: (F) Consent Calendar.*

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

## **V. STUDENT MEMBER REPORT**

Student Board Members Kim and Yoon presented an electronically submitted Student Member Report to the Board that consisted of the following:

Student Report – School Board Meeting 4/17/12

### **I. General Albany High School News**

- A. STAR Testing is April 30 – May 4
- B. AP Testing May 7 – May 18

### **II. Leadership Activity**

- A. Albany HS' Prom is April 28, 2012 and will be held at Chabot Space and Science Center in Oakland.
- B. Pie the Teacher Day is tomorrow at Albany High at lunch (4/18/12). Mr. Barone will be among the staff members participating in the event sponsored by the freshmen class council.

### **III. Awards**

- A. Three Albany High seniors won National Merit Scholarships for 2012: Daniel Xu, Patrick Xu, and Yvette Zou. The National Merit Scholarship is a fantastic honor for these three graduating students and is one of the highest high school academic honors in the nation.
- B. Albany High School has been selected for the American Association of School Librarians' Collaborative School Library Award for the EDSET Research Poster Session and Podcast Project. The \$2,500 award and will be given at the American Library Association's annual conference in Anaheim in June.

### **IV. Club Activity**

- A. The National Ocean Sciences Bowl team is traveling to Baltimore, MD, tomorrow (4/18/12) to compete in the national competition against 25 other winning teams from around the nation. Captain Juneyoung Jeong, Morgan Chen, Kevin Sun, Tony Wang, and Amy Xie will represent the Northern California region in the event.
- B. The Debate Club will be competing in the CaHSSA State Debate Tournament next weekend (April 27-29, 2012) at Lowell High School in San Francisco. Two Albany High students, James Ren and Felix Yoon, will represent the club in the tournament; the Debate Club and the local speech association (Golden Gate Speech Association) are looking for volunteer community judges to assist at the tournament. Email [albanyhsdebate@gmail.com](mailto:albanyhsdebate@gmail.com) if interested or for more information.

### **V. Community Events**

- A. Albany Music Fund's Tenth Anniversary Spring Fling will be held at Friday, April 20, 2012, from 7-10pm at the Albany Veteran's Memorial Building. Albany High School and Albany Middle School jazz bands, elementary and high school choir, and Albany High School's "Rhythm Bound" will be performing; tickets are \$20 for adults and \$10 for students, and are available at the door.

There being no further business under this item, the Board moved to the next item on the agenda.

## **VI. STAFF REPORTS**

**A) 8 Annual Facilities Report (Short & Long Term)**

Don Albright, Facilities Supervisor provided the Board with an Annual Facilities Report that included long term projects at the following facilities: 1) Albany High School; 2) Albany Middle School; 3) Ocean View Elementary School; 4) Cornell Elementary School; 5) Marin Elementary School; 6) Albany Children's Center; 7) MacGregor High School and short term projects at the following facilities: 1) Albany High School; 2) Albany Middle School; 3) Ocean View Elementary School; 4) Cornell Elementary School; 5) Marin Elementary School; 6) Albany Children's Center; 7) MacGregor High School; and 8) AUSD District Office.

The Board requested and received clarification regarding the time frame of short/long term. It was noted that short term time frame is by the end of the summer. Member Rosenbaum noted the need to replace the PA system at Albany High School.

Dave DeHart, ATA President, addressed the Board regarding the need for student and faculty input into the design of the replacement of the amphitheatre and reminded the Board of the previous plan to build subsidized teacher housing and store front property on Solano or at an alternative location of MacGregor High School.

The Board and the Superintendent thanked Mr. Albright for the report (to view the multi-media presentation discussion visit [www.ausdk12.org](http://www.ausdk12.org)).

**B) Inter-district Transfer Report**

Superintendent Stephenson provided the Board with a multi-media presentation that included the following: 1) 2011-12 New Inter-District Transfers; 2) 2011-12 Total Inter-District Transfers; 3) 2012-13 Wait list; 4) Online Enrollment Process 2012-13; 5) 2012-13 New Registrations; and 6) Re-verification.

The Board requested and received clarification, and it was noted that in 2010-11, AUSD exited 73 students who did not live in the District and did not have inter-district permits. Over the course of the first semester of 2011-12, AUSD brought in 153 inter-district students to increase enrollment and currently has 491 inter-district transfer students enrolled K-12.

It was also noted that AUSD will continue to annually re-verify residency for all AUSD families. Inter-district students must also annually renew permits and AUSD continues to investigate reports of students who do not live in the District and do not possess an inter-district permit to acquire accurate information to plan the District's future. It was also noted that AUSD has implemented an online registration process that has been well received.

The Board thanked Superintendent Stephenson for the multi-media presentation (to view the multi-media presentation and discussion visit [www.ausdk12.org](http://www.ausdk12.org)).

There being no further business under this item, the Board moved to the next item on the agenda.

**B) City of Albany Parks & Recreation Bi-Annual Report**

The Board of Education appoints two members to the City of Albany Park & Recreation Commission that advises the Albany City Council on all matters of public recreation, public park facilities, and public landscaping; formulates the Master Plan for recreation; makes recommendations to the City Council regarding the acquisition and maintenance of parks, playgrounds and recreation centers; and promotes recreation and encourages public agencies and private parties to develop recreational facilities and programs that benefit the citizens of Albany.



The Board's appointee, Nick Pilch, provided the Board with a report that included the following: 1) Albany Hill Park Master Plan; 2) Meadow; 3) Creek Vegetation; 4) Ohlone Greenway; 5) Par Course; 6) Work Plan; 7) Adopt A Trail; 8) Friends of Albany; and 9) Parks and Ball Fields. P19

The Board requested and received clarification regarding the bike racks at Memorial and Ocean View Parks, and it was noted that the Albany Community Foundation and the Albany Rollers & Strollers partnered to receive a PGE grant for more bike racks in Albany. Bike racks at Memorial and Terrace Parks have been installed.

The Board requested and received clarification regarding the Albany Hill Master Plan Update, and it was noted that the Albany Hill Creekside Master Plan update has been approved by the Albany City Council.

The Board requested and received clarification regarding the discussion of Ohlone Greenway Par Course, and it was noted that the Commission has discussed the feasibility of replacing the par course along the Ohlone Greenway and the request by Transition Albany to plant Fruit trees.

The Board requested and received clarification regarding the Commission's 2012 Work Plan, and it was noted that it was presented to the City Council.

The Board thanked Mr. Pilch for the report (to view the report and discussion visit [www.ausdk12.org](http://www.ausdk12.org)).

There being no further business under this item, the Board moved to the next item on the agenda.

#### **VII. PERSONS TO ADDRESS THE BOARD ON MATTERS NOT ON THE AGENDA**

*Board practice limits each speaker to no more than three (3) minutes. The Brown Act limits Board ability to discuss or act on items which are not on the agenda; therefore, such items may be referred to staff for comment or for consideration on a future agenda.*

There being no business under this item, the Board moved to the next item on the agenda.

#### **VIII. REVIEW AND ACTION ITEMS**

*A) Approve Resolution 2011-12-17 – Reduction of Classified School Services for the 2011-2012 School Year*  
Superintendent Stephenson addressed the Board regarding Resolution 2011-12-17 – Reduction of Classified School Services for the 2011-2012 School Year. The Board requested and received clarification that every year soft-money positions are laid off because they are funded by sources that will need to recommit those funds.

*President Black requested a motion to: Approve Reduction of Classified School Services for the 2011-2012 School Year.*

*Motion by Member Rosenbaum, seconded by Member Low to: Approve Resolution 2011-12-17 – Reduction of Classified School Services for the 2011-2012 School Year.*

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

*B) Conduct 2nd Reading; Adopt: Board Policy 6146.1 – High School Graduation.*

Director Brown addressed the Board regarding Board Policy 6146.1 – High School Graduation and noted the revisions requested at the last Board of Education meeting. The Board requested additional revisions.

~~P10~~  
*President Black requested a motion to: Revise & Adopt: Board Policy 6146.1 – High School Graduation.*

*Motion by Member Rosenbaum, seconded by Member Maris to: Revise & Adopt: Board Policy 6146.1 – High School Graduation.*

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

*C) Conduct 2nd Reading; Adopt: Board Policy 6170.1 – Transitional Kindergarten*

Director Brown addressed the Board regarding Board Policy 6170.1 – Transitional Kindergarten. The Board requested additional revisions in the area of eligibility dates.

*President Black requested a motion to: Revise & Adopt: Board Policy 6170.1 – Transitional Kindergarten.*

*Motion by Vice President Knight, seconded by Member Low to: Revise & Adopt: Board Policy 6170.1 – Transitional Kindergarten.*

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

*B) Albany Unified School District Board of Education Meeting Schedule 2012-2013*

Superintendent Stephenson addressed the Board regarding the Albany Unified School District Board of Education Meeting Schedule 2012-2013 and noted that the Albany City Council voted to amend the Albany City Charter to allow the Planning and Zoning Committee to meet on alternative dates - the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays of each month freeing up the Council Chambers for the Board of Education meetings.

Clay Larson, City of Albany resident, addressed the Board and noted his desire to retain the current schedule with Board of Education meetings held on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of the month.

*President Black requested a motion to: Approve Albany Unified School District Board of Education Meeting Schedule 2012-2013.*

*Motion by Member Maris, seconded by Vice President Knight to: Approve Albany Unified School District Board of Education Meeting Schedule 2012-2013.*

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

*C) Albany Unified School District Board of Education Governance Handbook*

Superintendent Stephenson addressed the Board regarding the Albany Unified School District Board of Education Governance Handbook and noted requested revisions.

*President Black requested a motion to: Revise & Approve Albany Unified School District Board of Education Governance Handbook.*

*Motion by Vice President Knight, seconded by Member Low to: Revise & Approve Albany Unified School District Board of Education Governance Handbook.*

P11

*The Board was polled and passed unanimously. Members: President Black, Vice President Knight, Member Maris, Member Low and Member Rosenbaum voting AYE.*

There being no further business under this item, the Board moved to the next item on the agenda.

## **IX. REVIEW AND DISCUSSION**

### *A) Board of Education Election Review Subcommittee Report(s)*

At the March 6, 2012 Board of Education meeting, Preston Jordan, City of Albany Charter Review Committee Chair provided the Board with a brief update on the election method review process, and the Board appointed Member Rosenbaum and Member Maris to a subcommittee to research the Education Code regarding election methods and appointed Member Low to a subcommittee to research factors in California to consider in evaluating the effectiveness of Albany School Board Elections.

Members Rosenbaum and Maris addressed the Board and noted that a review of the pertinent Ed. code sections and the Albany City Charter section on School Boards was conducted. It was noted that the Ed code has no provision for term limits, while the Albany City Charter limits board members to two (2) four (4) year elected terms. It was also noted that the leaving the Albany City Charter will end term limits, if the Board of Education so desires. It was also noted that the leaving the Albany City Charter would result in the County Superintendent recomposing the Board of Education until the next election. It was also noted that it would take a minimum of six (6) months to prepare for an election that would approve the Board of Education's separation from the Albany City Charter. It was also noted that the Board of Education and AUSD staff should encourage more candidates to apply for vacancies on the Board of Education through an education process, reduced costs of elections, and sponsoring more public-candidate events.

The Board requested and received clarification, engaged in a discussion, and thanked Members Rosenbaum and Maris for the subcommittee report (to view the discussion visit [www.ausdk12.org](http://www.ausdk12.org)).

The Board also appointed Member Low to a subcommittee to research the factors in California to consider in evaluating the effectiveness of Albany School Board Elections.

Member Low addressed the Board regarding the subcommittee work of capturing what has existed historically with regard to California School Board elections and whether there are any patterns in recent changes in election methods. It was noted that at-large elections to some form of by-district method have largely been motivated by the California Voting Rights Act. The report addressed whether a change in the city charter/election method of the Board of Education will make the Board of Education more effective at serving the schools and community and then understanding what other like cities (size & demographics) and school districts have done and why. The following was discussed:

1) How many California school districts have their school board election methods determined by city charter? Or, at least, approximately what percentage of districts in California have their election methods determined by city charter?

- There are 120 charter cities in California.
- For context, about 25% of cities in California are charter cities.
- There are approximately 1,101 school districts in the state of California.
- For a very rough estimate of an answer to question #1, if all 120 charter cities determined the election methods of a district, than 11% of school districts might be determined by a city charter (likely less).

2) <sup>P12</sup> How many school districts that are about the same size as Albany Unified have their school board election methods determined by city charter?

- Taking the list of charter cities, checking their population size and demographics and researching whether their school board election method is determined by their city charter would be beneficial.
- Two smallest charter cities in Alameda County, Alameda & Piedmont were chosen to provide answers to questions #2 & 3.
- Piedmont City Clerk, John Tulloch noted that the five member school board is elected at the same as the city council as prescribed by the charter. The only change that has occurred recently is to change these elections to February. School board members and city council members are limited to two four year terms; however, they may run again after a four year term is up. The city and school district have always shared the cost of the elections.
- The administrative assistant for the general counsel of Alameda Unified School District, Kathleen Brooks noted that the school board broke away from the city charter in 2004.

3) Of those in answer to #2, how many have changed their election methods during the last five years or so? From what to what?

- Measure F, proposed on the ballot of November 2004, amended the City of Alameda charter to delete references to the Board of Education so that the Board of Education election process etc. would be subject to/governed by state law. It passed 57.2% to 42.8%. The district always paid for its share of the elections prior to Measure F. As the result of the passage, school board members are no longer subject to term limits.
- 4) Information on term limits and school board effectiveness.
- Californians favor term limits for many of their elective offices, at least at the state level.
  - Term limits at the local level are far less common.
  - Nationwide, about 10 percent of cities place term limits on city council members or mayors.
  - In California, the percentage is higher.
  - In a 2006 National School Boards Association survey, 32 of 34 states surveyed, indicated that they did not place term limits on local school board members. California was one of the 32 states.

The Board requested and received clarification, engaged in a discussion, and thanked Member Low for the subcommittee report (to view the document and discussion visit [www.ausdk12.org](http://www.ausdk12.org)).

The Board appointed Member Maris to a subcommittee to research term limits, noted that it is open to proposals from the City of Albany to move forward on removing term limits, and wants to have it packaged with the City of Albany's other issues on the ballot.

There being no further business under this item, the Board moved to the next item on the agenda.

**X. EXTEND TIME OF BOARD MEETING TO 9:40 PM.**

President Black noted that a vote is needed to extend the meeting time past 9:30 p.m.

*President Black requested a motion to Approve: X: Extend Time of Board Meeting to 9:40 p.m.*

*Motion by Vice President Knight, seconded by Member Lowe to Approve: X: Extend Time of Board Meeting to 9:40 p.m.*

Motion by Vice President Knight, seconded by Member Lowe to Approve: X: Extend Time of Board Meeting to 9:35 p.m. P13

The Board was polled and passed. Members: President Black, Vice President Knight, Member Low, Member Maris, and Member Rosenbaum voting AYE.

There being no further business under this item, the Board moved to the next item on the agenda.

**XI. BOARD AND SUPERINTENDENT COMMENTS**

*Superintendent Stephenson*

Superintendent Stephenson addressed the Board regarding the City of Albany's 7 week series entitled Albany Civics Academy. It was noted that AUSD will be joining their efforts by adding one additional information night to the series on Thursday, June 14<sup>th</sup> from 7:00 p.m. – 9:00 p.m. at an AUSD location TBD for residents who are interested in learning about inner workings of Albany Unified School District and utilizing the opportunity to attract prospective Board of Education Members.

*Member Maris*

Member Low addressed the Board and noted that she attended the IIC and Ed Options meetings.

There being no further business under this item, the Board moved to the next item on the agenda.

**XII. FUTURE AGENDA ITEMS**

- Volunteer Recognition May
- Achievement Gap May
- Technology Committee Update May
- Employee Recognition May
- Single School Plans June
- Consolidated App (delayed by State)

There being no further business under this item, the Board moved to the next item on the agenda.

**XIII. FUTURE BOARD MEETINGS**

1. Tuesday, May 1, 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany
2. Tuesday, May 15, 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany
3. Tuesday, June 5, 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany
4. Tuesday, June 19, 2012, 7:00 p.m., Regular Meeting  
Albany City Hall, 1000 San Pablo Avenue, Albany

*Please note that the Board of Education is in recess in July.*

There being no further business, the Board adjourned at 9:45 p.m.

**XIII. ADJOURNMENT**

*The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board Meetings shall be adjourned at 9:30 p.m. unless extended to a specific time determined by a majority of the Board.*

# Personnel Assignment Order: Pending Approval

BOE Meeting 5/11/2012

## Class Certificated

### Category: Amendment

Position	Name	Reason	Site	FTE/Amt	Effec Date	End Date	Action	Funding
Chair, Science	Carlock, Peggy		AHS		3/31/12		Approve	

### Category: Extra Assignment

Position	Name	Reason	Site	FTE/Amt	Effec Date	End Date	Action	Funding
Chair, Science	McNally, Darren		AHS		3/26/12	6/8/13	Approve	GF

### Category: Leave

Position	Name	Reason	Site	FTE/Amt	Effec Date	End Date	Action	Funding
Teacher	Lou, Pansy		MA		8/27/12	6/14/13	Approve	
Teacher	Sinclair, Michelle		OV		8/27/12	6/14/13	Approve	
Teacher	Winnacker, Corrie		MA		8/27/12	6/14/13	Approve	

### Category: Separation of Service

Position	Name	Reason	Site	FTE/Amt	Effec Date	End Date	Action	Funding
----------	------	--------	------	---------	------------	----------	--------	---------

**BOE Meeting 5/1/2012**

Teacher	Grycz, Monica	MA	6/8/12	Approve	
Teacher	Schiller, Nancy	CO	6/8/12	Approve	

**Class Classified**

**Category: New Hire**

Position	Name	Reason	Site	FTE/Amt	Effec Date	End Date	Action	Funding
Custodian	Clark, Gerald		AHS		4/23/12		Approve	GF
Para-educator, substitute	Boatman, Edith		ACC		5/2/12		Approve	ACC
Para-educator, substitute	Rivera, Yvonne		ACC		5/2/12		Approve	ACC
Para-educator, substitute	Rydman, Jackie		ACC		5/2/12		Approve	ACC

**Class Uncompensated Service**

**Category: Volunteer**

Position	Name	Reason	Site	FTE/Amt	Effec Date	End Date	Action	Funding
	Brewster, April				5/2/12		Approve	
	Burns, Michael				5/2/12		Approve	
	Eutster, Alesia				5/2/12		Approve	

**BOE Meeting 5/1/2012**

Hansen-Romero, Jennife	5/2/12	Approve
MacManes, Kate	5/2/12	Approve
Moody, Joel	5/2/12	Approve
Obbard, Philip	5/2/12	Approve
O'Reilly, Lisa	5/2/12	Approve
Pennington-Kent, Phyllis	5/2/12	Approve
Reiter, Alissa	5/2/12	Approve
Rice, Karth	5/2/12	Approve
Solomon, Russell	5/2/12	Approve
Wolf, Heather	5/2/12	Approve



**ALBANY UNIFIED SCHOOL DISTRICT  
BOARD AGENDA BACKUP**

**Regular Meeting of May 1, 2012**

**ITEM: FIELD TRIP QUARTERLY REPORT**

**PREPARED BY:** Marsha A. Brown, Director III – Student Services

**TYPE OF ITEM: REVIEW & DISCUSSION**

**BACKGROUND INFORMATION:**

In compliance with Board Policy and Administrative Regulation 6153 School-Sponsored Trips, a quarterly summary of field trips taken is being presented for review and discussion.

A total of 51 regular field trips have been taken this quarter (January 20, 2012 through March 30, 2012). If analyzed by school:

School	3rd Quarter	Total YTD
Cornell	14	23
Marin	10	27
Ocean View	9	20
AMS	6	18
AHS	12	49

If analyzed by grade level:

Grade	3rd Quarter	Total YTD
Kg	2	8
2 <sup>nd</sup>	7	10
3 <sup>rd</sup>	5	17
4 <sup>th</sup>	7	12
5 <sup>th</sup>	7	18
6 <sup>th</sup>	6	19
7 <sup>th</sup>	0	3
8 <sup>th</sup>	0	3
9 <sup>th</sup>	11	28
10 <sup>th</sup>	11	34
11 <sup>th</sup>	12	42
12 <sup>th</sup>	12	45

**FINANCIAL INFORMATION:**

A variety of funding sources, including donations, were used to fund field trips. No student was denied participation if unable to pay.

**RECOMMENDATION:**

**Review and discuss the field trip quarterly report.**

**ALBANY UNIFIED SCHOOL DISTRICT  
BOARD AGENDA BACKUP**

**Regular Meeting of May 1, 2012**

**ITEM: MEASURE E COMMUNITY OVERSIGHT COMMITTEE  
ANNUAL REPORT**

**PREPARED BY: MARLA STEPHENSON, SUPERINTENDENT**

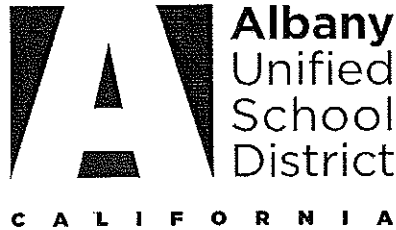
**TYPE OF ITEM: REVIEW & DISCUSSION**

---

**BACKGROUND INFORMATION:**

The Measure E Community Oversight Committee's charge is to actively review and report on the expenditure of taxpayer's money for school construction.

Greg Lunkes, Measure E Community Oversight Committee Chair will provide the 4<sup>th</sup> annual report. Attached is an auditor's report dated June 30, 2011.



1051 Monroe Street  
Albany, CA 94706  
510.558.3750 Phone  
510.559.6560 Fax  
www.ausdk12.org

**District Administration**  
Maria Stephenson, *Superintendent*  
Laurie Harden, *Assistant Superintendent*

**Board of Education**  
Paul Black  
Jonathan Knight  
Patricia Low  
Allan Maris  
Ronald Rosenbaum

**CITIZENS  
OVERSIGHT  
COMMITTEE**

April 19, 2012

To: The Board of Education and Citizens of the Albany Unified School District

**Greg Lunkes, Chair**

The Citizens' Oversight Committee is pleased to forward its fourth annual report on the ten million dollar, 2008 Albany Community Pool Improvement Bond Measure, Anni Tilt, *Co-Chair* which covers the 2010-11 fiscal year. The principal duties of the Committee are to ensure that Bond proceeds are expended for the purposes described in the Bond ballot language, report the program's progress to the public and provide a compliance statement.

**David Clahan**

**Chris Donahue**

**Robert Jacobs**

**Jesse Nawy**

**Alan Riffer**

During the year ending June 30, 2011, the Committee held regular quarterly meetings on August 16, 2010; October 21, 2010; February 3, 2011 and April 19, 2011. At each of these meetings, the Committee reviewed the design, scope, budget and schedule for the project. A quarterly review of expenditures was conducted by a Bond Oversight Committee member who reviewed selected expenditures for compliance with the terms of Measure E and Proposition 39; there were no discrepancies noted.

**Peggy Thomsen**

The first phase of the project commenced in June, 2009 with the demolition of the old pool facility. The sale of the Bonds occurred in July, 2009 and was timed to take advantage of a more stable market rate. Design services, site costs, and demolition costs prior to the sale of the Bonds were advanced from other district funds. Upon the sale of the Bonds, those costs were transferred to the Measure E Bond Fund and are subject to this Committee's oversight.

The Committee accepted the annual audit of Bond expenditures performed by Wilson Hadley King & Co., LLP. The audit disclosed no instances of non-compliance with the terms of Proposition 39 or the terms of the Albany Community Pool Improvement Bond Measure, as approved by district voters.

The Committee is pleased to report, to the best of its knowledge, that the Albany Unified School District is in compliance with the terms described in Article XIII A, Section 1(b) (3) of the California State Constitution.

Respectfully submitted on the behalf of the entire Committee,

Greg Lunkes, Chair

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND  
BUILDING FUND**

**FINANCIAL STATEMENTS AND  
INDEPENDENT AUDITOR'S REPORT**

**JUNE 30, 2011**

**ALBANY UNIFIED SCHOOL DISTRICT  
PROPOSITION E BOND BUILDING FUND  
TABLE OF CONTENTS**

<b>INTRODUCTION</b>	<u><b>Page</b></u>
Introduction and Citizens' Oversight Committee Member Listing.....	1
Independent Auditor's Report.....	2
 <b>FINANCIAL SECTION</b>	
Balance Sheet.....	3
Statement of Revenues, Expenditures, and Changes in Fund Balance.....	4
Notes to the Financial Statements.....	5
 <b>OTHER INDEPENDENT AUDITOR'S REPORTS</b>	
Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i> .....	12
Independent Auditor's Report on Performance.....	14
 <b>FINDINGS AND RESPONSES SECTION</b>	
Schedule of Findings and Response.....	16
Summary Schedule of Prior Audit Findings.....	17

**Albany Unified School District  
Measure E Bond Building Fund**

Albany Unified School District includes approximately 1.8 square miles in the northern part of Alameda County and provides educational (K-12) services to the residents of the City of Albany. The district operates three elementary schools, one middle school, one comprehensive high school and one alternative high school. The estimated population of the district is 16,460.

On February 5, 2008 the voters of Alameda County passed ballot Measure E, authorizing the issuance and sale of \$10,000,000 of general obligation bonds. The sale of the general obligation bonds (Series A) closed in August 2009, for a principal amount of \$10,000,000. The funds were deposited into the Alameda County Treasury. All warrants are preaudited and processed by the Alameda County Office of Education. All Measure E building funds are accounted for in Fund 21 of the District's general ledger.

Measure E was a Proposition 39 bond. The passage of Proposition 39 in November 2000 amended the California Constitution to include accountability measures. Specifically, the District must conduct an annual independent performance audit to ensure that funds have been expended only on the specific projects listed [Article XIII A §1 (b) (3) (C)] as well as an annual, independent financial audit of the proceeds from the sale of the bonds until all of the proceeds have been expended for facilities projects [Article XIII A §1 (b) (3) (D)].

Upon passage of Proposition 39, an accompanying piece of legislation, AB 1908, was also enacted, which amended the Education Code to establish additional procedures which must be followed if a district seeks approval of a bond measure pursuant to the 55% majority authorized in Proposition 39 including information, composition, and purpose of the Citizens' Bond Oversight Committee, and authorization for injunctive relief against the improper expenditure of bond revenues.

The Citizens' Bond Oversight Committee was comprised of the following members as of June 30, 2011:

Greg Lunkes	Chair
Anni Tilt	Co-Chair
David Clahan	Member
Chris Donahue	Member
Robert Jacobs	Member
Jesse Nawy	Member
Alan Riffer	Member
Peggy Thomsen	Member



Wilkinson Hadley King & Co. LLP  
CPAs and Advisors

P. Robert Wilkinson, CPA  
Brian K. Hadley, CPA

218 W. Douglas Avenue • El Cajon, CA 92020  
Tel. (619) 447-6700 • Fax (619) 447-6707

Aubrey W. King, CPA  
Richard K. Savage, CPA

## INDEPENDENT AUDITOR'S REPORT

**Governing Board Members and  
Citizens' Bond Oversight Committee  
Albany Unified School District  
Albany, California**

We have audited the accompanying financial statements of Measure E Building Fund of Albany Unified School District as of and for the year ended June 30, 2011 as listed in the table of contents. These financial statements are the responsibility of the District's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board and *Audits of State and Local Governments* issued by the American Institute of Certified Public Accountants and the standards applicable to financial audits in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note A, the financial statements present only the Building Fund which is specific to Measure E and are not intended to present fairly the financial position and results of operations of Albany Unified School District in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Measure E Building Fund of Albany Unified School District as of June 30, 2011, and the results of its operations for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated January 17, 2012, on our consideration of Albany Unified School District's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, grants agreements and other matters. The purpose of that report is to describe the scope of our testing of internal controls over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

*Wilkinson Hadley King & Co., LLP*

El Cajon, California  
January 17, 2012

**FINANCIAL SECTION**



**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
BALANCE SHEET  
JUNE 30, 2011**

**ASSETS****Current Assets**

Cash in county treasury

\$ 5,929,616**TOTAL ASSETS**\$ 5,929,616**LIABILITIES AND FUND BALANCE**

Accounts payable

\$ 1,203,648**TOTAL LIABILITIES**1,203,648**FUND BALANCE**

Designated for capital projects

4,525,968**TOTAL LIABILITIES AND FUND BALANCE**\$ 5,729,616

The accompanying notes are an integral part of these financial statements.

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
STATEMENT OF REVENUES, EXPENDITURES AND  
CHANGES IN FUND BALANCE  
FOR THE YEAR ENDED JUNE 30, 2011**

<b>REVENUES</b>	
Interest income	<u>\$ 48,432</u>
<b>EXPENDITURES</b>	
Books and supplies	3,952
Services and other operating expenses	33,177
Capital outlay:	
Architect fees	176,716
Project management	2,127
Site contractor	3,346,336
Inspection services	167,584
Construction management	247,704
Building/grounds costs	<u>541,492</u>
<b>TOTAL EXPENDITURES</b>	<u>4,519,088</u>
<b>REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(4,470,656)</u>
<b>FUND BALANCE, BEGINNING OF YEAR</b>	<u>8,996,624</u>
<b>FUND BALANCE, END OF YEAR</b>	<u>\$ 4,525,968</u>

The accompanying notes are an integral part of these financial statements

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2011**

**A. Summary of Significant Accounting Policies**

*Reporting Entity*

The Albany Unified School District (District) provides educational services to the residents of the City of Albany in the northern part of Alameda County. The District currently operates three elementary schools, one middle school, one comprehensive high school and one alternative high school.

The accompanying financial statements present the financial position and results of activities for the District Measure E Bond Building Fund (Bond Fund). Escrow funds, debt service funds, cost of issuance and bonded debt are accounted for at the County level and are not presented in the accompanying financial statements.

*Accounting Policies*

The accompanying financial statements have been prepared in conformity with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board and *Audits of State and Local Governmental Units* issued by the American Institute of Certified Public Accountants. The budgetary and financial accounts of the District have been recorded and maintained in accordance with the *California School Accounting Manual* published by the California Department of Education for use by K-12 school districts.

*Fund Structure*

The Statement of Revenues, Expenditures, and Changes in Fund Balances is a statement of financial activities of the Bond Fund related to the current reporting period. Expenditures of the fund frequently include amounts for supplies, buildings, equipment, transfers to other funds, etc. consequently, these statements do not purport to present the result of operations or the net income or loss for the period as would a statement of income for a profit-type organization.

*Basis of Accounting*

Basis of accounting refers to when revenues and expenditures or expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of measurement made, regardless of the measurement focus applied.

The Building Fund is maintained on the modified accrual basis of accounting. Its revenues are recognized in the accounting period in which they become both measurable and available to finance expenditures of the current fiscal period. Expenditures are recognized in the accounting period in which the liability is incurred (when goods are received or services rendered). With this measurement focus, only current assets and current liabilities generally are included on the balance sheet. The statement of revenues, expenditures, and changes in fund balance reports on the sources (revenues and other financing sources) and uses (expenditures and other financing uses) of current financial resources.

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2011  
(Continued)**

**A. Summary of Significant Accounting Policies (Continued)**

*Budget*

The Governing Board adopts an operating budget no later than July 1 in accordance with state law. This budget is revised by the Governing Board during the year to give consideration to unanticipated revenue and expenditures primarily resulting from events unknown at the time of budget adoption.

*Encumbrances*

The District utilizes an encumbrance accounting system under which purchase orders, contracts and other commitments for the expenditure of monies are recorded in order to reserve that portion of the applicable appropriation. Encumbrances are liquidated at June 30 since they do not constitute expenditures or liabilities.

*Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates.

*Cash in County Treasury*

In accordance with Education Code §41001, the District maintains a substantial amount of its cash in the Alameda County Treasury. The County pools these funds with those of other districts in the County and invests the cash. These pooled funds are carried at cost, which approximates fair value, in accordance with the requirements of GASB Statement No. 31.

Interest earned is deposited quarterly into participating funds. Any investment losses are proportionately shared by all funds in the pool.

The county is authorized to deposit cash and invest excess funds by California Government Code §53648 et.seq. The funds maintained by the county are either secured by federal depository insurance or are collateralized.

Information regarding the amount of dollars invested in derivatives with San Diego County Treasury was not available.

*Receivables and Payables*

Transactions between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as interfund receivables/payables. Accounts receivable are recorded net of estimated uncollectible amounts. There were no significant receivables that are not scheduled for collection within one year of year-end.

**ALBANY UNIFIED SCHOOL DISTRICT**  
**MEASURE E BOND BUILDING FUND**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**JUNE 30, 2011**  
**(Continued)**

**A. Summary of Significant Accounting Policies (Continued)**

*Fund Balance Reserves and Designations*

Reservations of the ending fund balance indicate the portions of fund balance not appropriate for expenditure or amounts legally segregated for a specific future use. These amounts are not available for appropriation and expenditure at the balance sheet date. Designations of the ending fund balance indicate tentative plans for financial resource utilization in a future period.

**B. Cash and Investments**

*Cash in County Treasury*

The District maintains significantly all of its cash in the Alameda County Treasury as part of the common investment pool. As of June 30, 2011, the portion of cash in county treasury attributed to Building Fund was \$5,929,616. The fair value of Building Fund's portion of this pool as of that date, as provided by the pool sponsor, was \$5,929,616. Assumptions made in determining the fair value of the pooled investment portfolios are available from the County Treasurer.

The District is considered to be an involuntary participant in an external investment pool as the District is required to deposit all receipts and collections of monies with their County Treasurer (Education Code Section 41001).

The fair value of the District's investment in the pool is reported in the accounting financial statement at amounts based upon the District's pro-rata share of the fair value provided by the County Treasurer for the entire portfolio (in relation to the amortized cost of that portfolio). The balance available for withdrawal is based on the accounting records maintained by the County Treasurer, which is recorded on the amortized cost basis.

*Investments*

The District is authorized under California Government Code to make direct investments in local agency bonds, notes, or warrants within the State; U.S. Treasury instruments; registered State warrants or treasury notes; securities of the U.S. Government, or its agencies; bankers acceptances; commercial paper; certificates of deposit placed with commercial banks and/or savings and loan companies; repurchase or reverse repurchase agreements; medium term corporate notes; shares of beneficial interest issued by diversified management companies; certificates of participation; obligations with first priority security; and collateralized mortgage obligations.

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2011  
(Continued)**

**B. Cash and Investments (Continued)**

*Analysis of Specific Deposit and Investment Risks*

GASB Statement No. 40 requires a determination as to whether the District was exposed to the following specific investment risks at year end and if so, the reporting of certain related disclosures:

a. *Credit Risk*

Credit Risk is the risk that an issuer or their counterparty to an investment will not fulfill its obligations. The county is restricted by Government Code Section 53635 pursuant to Section 53601 to invest only in time deposits, U.S. government securities, state registered warrants, notes or bonds, State Treasurer's investment pool, bankers' acceptances, commercial paper, negotiable certificates of deposit, and repurchase or reverse repurchase agreements. The ratings of securities by nationally recognized rating agencies are designed to give an indication of credit risk. At year end, the District was not exposed to credit risk.

b. *Custodial Credit Risk*

Deposits are exposed to custodial credit risk if they are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the District's name. At year end, the District was not exposed to custodial credit risk.

c. *Concentration of Credit Risk*

This risk is the risk of loss attributed to the magnitude of a government's investment in a single issuer. At year end, the District was not exposed to concentration of credit risk.

d. *Interest Rate Risk*

This is the risk that changes in interest rates will adversely affect the fair value of an investment. At year end, the District was not exposed to interest rate risk.

e. *Foreign Currency Risk*

This is the risk that exchange rates will adversely affect the fair value of an investment. At year end, the District was not exposed to foreign currency risk.

**ALBANY UNIFIED SCHOOL DISTRICT  
 MEASURE E BOND BUILDING FUND  
 NOTES TO THE FINANCIAL STATEMENTS  
 JUNE 30, 2011  
 (Continued)**

**B. Cash and Investments (Continued)**

*f. Investment Accounting Policy*

The district is required by GASB statement No. 31 to disclose its policy for determining which investments, if any are reported at amortized cost. The District's general policy is to report money market investments and short-term participating interest-earning investment contracts using a cost-based measure; however, if the fair value of an investment is significantly affected by the impairment of the credit standing of the issuer or by other factors, it is reported at fair value.

All other investments are reported at fair value unless a legal contract exists which guarantees a higher value. The term "short-term" refers to investments which have a remaining term of one year or less at time of purchase. The term "nonparticipating" means that the investment's value does not vary with market interest rate changes. Nonnegotiable certificates of deposit are examples of nonparticipating interest-earning investment contracts.

**C. Accounts Payable**

Accounts payable at June 30, 2011 consisted of:

Vendor payables	<u>\$ 1,203,648</u>
-----------------	---------------------

**D. Bonded Debt of the District**

The District received authorization at an election held on February 5, 2008, by more than fifty-five percent of the votes cast by eligible voters within the District, to issue general obligation bonds in the amount of \$10,000,000 under Proposition 39. These bonds are issued in multiple series as general obligations of the District. The following information is provided for purposes of additional analysis only.

In July 2009, Series 2008A general obligation bonds in the amount of \$10,000,000 were sold at a premium. Proceeds from the sale of the bonds may only be used for construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of such facilities; or for the acquisition or lease of real property for school facilities. In addition, proceeds may only be used for the projects listed in the Measure, which include the construction of a new swimming pool for student, adult school, athletic competition and Albany community use; locker rooms and related facilities; and additional high school classrooms. Proceeds may not be used for any other purpose, such as teacher and administrator salaries nor operating expenses.

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2011  
(Continued)**

**D. Bonded Debt of the District (Continued)**

Measure E Bonded Debt

The outstanding Measure E bonded debt is as follows:

Changes in bonded debt for the period ended June 30, 2011, are as follows:

	<u>Beginning Balance</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending Balances</u>	<u>Amounts Due Within One Year</u>
Series 2008 A Bonds	\$ 10,000,000	\$ -	\$ -	\$ 10,000,000	\$ -

Debt Service Requirements

Debt service requirements on Measure E bonds as of June 30, 2011, are as follows:

<u>Year Ending June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2012	\$ -	\$ 564,218	\$ 564,218
2013	-	564,218	564,218
2014	-	564,218	564,218
2015	-	564,218	564,218
2016	-	564,218	564,218
2017-2021	-	2,821,090	2,821,090
2022-2027	7,080,000	1,732,306	8,812,306
2028-2030	2,920,000	155,481	3,075,481
<b>Totals</b>	<b>\$ 10,000,000</b>	<b>\$ 7,749,894</b>	<b>\$ 17,749,894</b>

**E. Construction Commitments**

As of June 30, 2011 the District Building Fund had the following commitments with respect to unfinished capital projects:

<u>Construction in Process:</u>	<u>Commitment</u>	<u>* Expected Date of Final Completion</u>
Albany High School Pool	\$ 2,200,00	December 2011

\* Expected date of final completion subject to change.



**OTHER INDEPENDENT AUDITOR'S REPORTS**



Wilkinson Hadley King & Co. LLP  
CPAs and Advisors

P. Robert Wilkinson, CPA  
Brian K. Hadley, CPA

218 W. Douglas Avenue • El Cajon, CA 92020  
Tel. (619) 447-6700 • Fax (619) 447-6707

Aubrey W. King, CPA  
Richard K. Savage, CPA

**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED  
IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

**Governing Board Members and  
Citizens Bond Oversight Committee  
Albany Unified School District  
Albany, California**

We have audited the financial statements of Measure E Building of Albany Unified School District for the year ended June 30, 2011, and have issued our report thereon dated January 17, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit, we considered Albany Unified School District's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Albany Unified School District's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Albany Unified School District's internal control over financial reporting.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Albany Unified School District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management, the Citizens Bond Oversight Committee, and the Board of Directors, and is not intended to be and should not be used by anyone other than these specified parties.

*William Harley King & Co., LLP*

El Cajon, California  
January 17, 2012



Wilkinson Hadley King & Co. LLP  
CPAs and Advisors

P. Robert Wilkinson, CPA  
Brian K. Hadley, CPA

218 W. Douglas Avenue • El Cajon, CA 92020  
Tel. (619) 447-6700 • Fax (619) 447-6707

Aubrey W. King, CPA  
Richard K. Savage, CPA

## INDEPENDENT AUDITOR'S REPORT ON PERFORMANCE

### Governing Board Members and Citizens Bond Oversight Committee Albany Unified School District Albany, California

We have audited the financial statements of the Measure E Building Fund of Albany Unified School District as of and for the fiscal year ended June 30, 2011 and have issued our report thereon dated January 17, 2012. Our audit was made in accordance with generally accepted auditing standards in the United States of America and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In connection with our performance audit, we performed an audit for compliance as required in the performance requirements for the Proposition 39 Measure E General Obligation Bonds for the fiscal year ended June 30, 2011. The objective of the audit of compliance applicable to Albany Unified School District is to determine with reasonable assurance that:

- The proceeds from the sale of the Measure E Bonds were only used for the purposes set forth in the ballot measure and not for any other purpose, such as teacher and administrative salaries.
- The Governing Board of the District, in establishing the approved projects set forth in the ballot measure, will modernize, replace, renovate, construct, acquire, equip, furnish, and otherwise improve facilities of the District as noted in the bond project list.

In performing our audit of compliance, we performed procedures including but not limited to those listed as follows:

### Internal Control Evaluation

#### Procedure Performed:

Inquiries were made of management regarding internal controls to:

- Prevent fraud, waste, or abuse regarding Measure E resources.
- Prevent material misstatement in the Measure E Building Fund financial statements.
- Ensure all expenditures are properly allocated.
- Ensure adequate separation of duties exists in the accounting of Measure E funds.

### **Internal Control Evaluation (continued)**

- Verify that a separate Building Fund of the District has been established to account for the receipt of bond proceeds and expenditure of the funds for July 1, 2010 through June 30, 2011.
- Verify through examination of the bond issue settlement statement and accounting records that the net proceeds from the sale of the General Obligation Bonds were recorded in the separate fund of the District and any amounts set aside for debt service were deposited into the related bond interest and redemption fund.

Purchase requisitions are required for all expenditures. All requisitions are reviewed for proper supporting documentation. The requisitions are initiated by the Facilities Director then get approval from the Assistant Superintendent of Business. The Assistant Superintendent of Business verifies that all expenditures are properly recorded by project and expense category.

When the purchase requisition has gone through the approval process, it will then be turned into a purchase order. Purchase orders are then processed via the District's normal purchase order system. Purchase orders are then provided to the vendor who then proceeds to perform the requested service or provide the requested item. After the service is performed or item received and subsequent invoice is received requesting payment, the lead accountant or Assistant Superintendent of Business verifies the services were performed or the items were received and then invoices are processed for payment.

The District has established a separate Building Fund to properly account for the receipt of bond proceeds and expenditures. The District properly recorded receipts of bond proceeds within the Building Fund.

#### Results of Procedures Performed

The results of our audit determined the internal control procedures as implemented are sufficient to meet the financial and compliance objectives required by generally accepted accounting standards and applicable laws and regulations.

#### **Tests of Expenditures**

##### Procedures Performed:

We tested expenditures to determine whether Measure E funds were spent solely on voter and Board approved school facilities projects as set forth in the Bond Project List and the Measure E ballot measure language. Our testing included vendor payments totaling approximately \$3,866,832 or approximately 86% of the total Building Fund expenditures for the year.

##### Results of Procedures Performed:

We found no instances where expenditures tested were not in compliance with the terms of the Measure E ballot measure and applicable state laws and regulations.

**Tests of Contracts and Bid Procedures**

Procedures Performed:

We reviewed the District's board minutes for approval of construction contracts and, if any, change orders to determine compliance with the District's policy and Public Contract Code provisions related to biddings and contracting.

Results of Procedures Performed:

We noted no instances where the District was out of compliance with respect to contracts and bidding procedures.

**Citizens' Bond Oversight Committee**

Procedures Performed:

We have reviewed the minutes of the Citizens' Bond Oversight Committee meetings to verify compliance with Education Code sections 15278 through 15282.

Results of Procedures Performed:

We have determined the Albany Unified School District's Measure E Citizens' Bond Oversight Committee and its involvement is in compliance with Education Code sections 15278 through 15282.

Our audit of compliance made for the purposes set forth in the second and third paragraphs of this report above would not necessarily disclose all instances of noncompliance.

In our opinion, the District complied, in all material respects, with the compliance requirements for the Measure E Building Fund, for the fiscal year ended June 30, 2011.

This report is intended solely for the information and use of the District's Governing Board, the Measure E Citizens' Bond Oversight Committee, management, others within the entity, and the taxpayers of Albany Unified School District and is not intended to be and should not be used by anyone other than these specified parties.

*Wilkinson Hadley King & Co., LLP*

El Cajon, California  
January 17, 2012

**FINDINGS AND RESPONSES SECTION**

**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS  
JUNE 30, 2011**

There were no findings or questioned costs for the year ended June 30, 2011.



**ALBANY UNIFIED SCHOOL DISTRICT  
MEASURE E BOND BUILDING FUND  
SCHEDULE OF PRIOR YEAR FINDINGS AND QUESTIONED COSTS  
YEAR ENDED JUNE 30, 2011**

There were no findings or questioned costs for the year ended June 30, 2010.

**ALBANY UNIFIED SCHOOL DISTRICT  
BOARD AGENDA BACKUP**

**Regular Meeting of May 1, 2012**

**ITEM:** **BOARD CONVERSATION**  
**STRATEGIC PLAN - PROGRESS & NEXT STEPS**  
*(under separate cover)*

**PREPARED BY:** **MARLA STEPHENSON, SUPERINTENDENT**

**TYPE OF ITEM:** **REVIEW & DISCUSSION**

---

**BACKGROUND INFORMATION**

Albany Unified School District's Strategic Plan was initiated in August of 2009 and approved April 2010 by the Board of Education.

Albany Unified School District's Strategic Plan prioritizes and aligns district resources (staff, time and funding) for the purpose of providing the highest quality education for all AUSD students. The Strategic Plan identified strategies necessary for improving student academic outcomes through focus groups with the Board of Education, Executive Cabinet Members, District Administrators, and teachers. The agreed upon strategies were handed over to the Action Teams to develop a set of specific goals for each strategy and suggested action steps that could be taken to achieve the strategies. The plan was implemented in 2010. In 2012, the Action Teams were reconvened to report on the progress made towards the strategies.

The Board Conversation covers the ongoing progress and potential next steps of the Albany Unified School District's Strategic Plan.

**ALBANY UNIFIED SCHOOL DISTRICT  
BOARD AGENDA BACKUP**

**Regular Meeting of May 1, 2012**

**ITEM: POTENTIAL NOVEMBER 2012 BALLOT MEASURES  
DESIGNED TO FUND PUBLIC EDUCATION**

**PREPARED BY: MARLA STEPHENSON, SUPERINTENDENT**

**TYPE OF ITEM: REVIEW & DISCUSSION**

**BACKGROUND INFORMATION:**

The Board of Education requested AUSD staff to research potential November 2012 ballot measures designed to fund public education, and the following two were identified:

1. Governor Brown's Tax Initiative

Governor Brown and the California Federation of Teachers reached a compromise on their competing tax measures that they feel will better their collective chances of seeing increased revenue after November. Under the new deal, the statewide sales tax will increase by a quarter-cent per dollar, and those in the top two tax brackets will see increases of two percentage points and three percentage points respectively. These increases will also last an additional two years on top of the five initially proposed by the Governor.

2. Millionaire's Tax

Molly Munger, an attorney and author of an opposing tax initiative, has a plan that would raise income taxes only for millionaires. Munger's campaign claims that all of the expected \$10 billion raised annually by the new measure would go directly to fund K-12 education, but for the first four years 30% of that money will be redirected to help battle the state's budget deficit.

## THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT OF 2012

### Sec. 1. Title.

This measure shall be known and may be cited as "The Schools and Local Public Safety Protection Act of 2012."

### Sec. 2. Findings.

(a) Over the past 4 years alone, California has had to cut more than \$56 billion from education, police and fire protection, healthcare and other critical state and local services. These funding cuts have forced teacher layoffs, increased school class sizes, increased college fees, reduced police protection, increased fire response times, exacerbated dangerous overcrowding in prisons, and substantially reduced oversight of parolees.

(b) These cuts in critical services have hurt California's seniors, middle-class, working families, children, college students and small businesses the most. We cannot afford more cuts to education and the other services we need.

(c) After years of cuts and difficult choices it is necessary to turn the state around. Raising new tax revenue is an investment in our future that will put California back on track for growth and success.

(d) The Schools and Local Public Safety Protection Act of 2012 will make California's tax system more fair. With working families struggling while the wealthiest among us enjoy record income growth, it is only right to ask the wealthy to pay their fair share.

(e) The Schools and Local Public Safety Protection Act of 2012 raises the income tax on those at the highest end of the income scale – those who can most afford it. It also temporarily restores some sales taxes in effect last year, while keeping the overall sales tax rate lower than it was in early 2011.

(f) The new taxes in this measure are temporary. Under the Constitution the 1/4 cent sales tax increase expires in four years, and the income tax increases for the wealthiest taxpayers end in seven years.

(g) The new tax revenue is guaranteed in the Constitution to go directly to local school districts and community colleges. Cities and counties are guaranteed ongoing funding for public safety programs such as local police and child protective services. State money is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, working families, and small businesses. Everyone benefits.

(h) To ensure these funds go where the voters intend, they are put in special accounts that the Legislature cannot touch. None of these new revenues can be spent on state bureaucracy or administrative costs.

(i) These funds will be subject to an independent audit every year to ensure they are spent only for schools and public safety. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

### Sec. 3. Purpose and Intent.

(a) The chief purpose of this measure is to protect schools and local public safety by asking the wealthy to pay their fair share of taxes. This measure takes funds away from state control and places them in special accounts that are exclusively dedicated to schools and local public safety in the state constitution.

(b) This measure builds on a broader state budget plan that has made billions of dollars in permanent cuts to state spending.

(c) The measure guarantees solid, reliable funding for schools, community colleges, and public safety while helping balance the budget and preventing further devastating cuts to services for seniors, middle-class, working families, children and small businesses.

(d) This measure gives constitutional protection to the shift of local public safety programs from state to local control and the shift of state revenues to local government to pay for those programs. It guarantees that schools are not harmed by providing even more funding than schools would have received without the shift.

(e) This measure guarantees that the new revenues it raises will be sent directly to school districts for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for schools and local public safety.

Sec. 4: Section 36 is added to Article XIII of the California Constitution, to read:

SEC. 36. (a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012 except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b)(1) Except as provided in (d), commencing in fiscal year 2011-2012 and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c)(1) Funds deposited in the Local Revenue Fund 2011, are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city

and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4)(A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5)(A) For programs described in subparagraphs (C) to (E) inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E) inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided



by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e)(1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section as specified in subdivision (f).

(2)(A) Before June 30, 2013, and before June 30th of each year thereafter through 2018, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012-13 fiscal year.

(B) During the last ten days of the quarter of each of the first three quarters of each fiscal year from 2013-14 through 2018-19, the Controller shall transfer into the Education Protection Account one fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years 2012-13 through 2020-21, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012-13 through 2018-19, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June through 2021, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph.

(A) Eleven percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read upon the enactment of this section. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c) and (d) of Section 84751 of the Education Code, as that section read upon enactment of this section, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read upon enactment of this section, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty nine percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558; paragraphs (1) through (7) of subdivision (h) of Section 42238, and Section 47635 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section, which are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of

Governors of the California Community Colleges and the Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account shall not be used to pay any costs incurred by the Legislature, Governor or any agency of state government.

(6) A community college district, county office of education, school district, and charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes" and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f)(1)(A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased

from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall cease to be operative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over two hundred and fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000) the tax rate is 10.3 percent of the excess over two hundred and fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000) the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this provision shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall cease to be operative on December 1, 2019.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eight thousand dollars (\$408,000) the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000) the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this provision shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall cease to be operative on December 1, 2019.

(g)(1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

#### Sec. 5. Effective Date.

Subdivision (b) of Section 36 of Article XIII, as added by this measure, shall be operative as of July 1, 2011. Paragraphs (2) and (3) of subdivision (f) of Section 36 of Article XIII, as added by this measure, shall be operative as of January 1, 2012. All other provisions of this measure shall take effect the day after the election in which it is approved by a majority of the voters voting on the measure provided.

#### Sec. 6. Conflicting Measures.

In the event that this measure and another measure that imposes an incremental increase in the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

#### Sec. 7.

This measure provides funding for school districts and community college districts in an amount that equals or exceeds that which would have been provided if the revenues deposited pursuant to Sections 6051.15 and 6201.15 of the Revenue and Taxation Code pursuant to Chapter 43 of the Statutes of 2011 had been considered "General Fund revenues" or "General Fund proceeds of taxes" for purposes of Section 8 of Article XVI of the California Constitution.

## **OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS AND EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT**

### **SECTION 1. Title.**

This measure shall be known and may be cited as "Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act."

### **SECTION 2. Findings and Declaration of Purpose.**

1. California is shortchanging the future of our children and our state. Today, our state ranks 46th nationally in what we invest to educate each student. California also ranks dead last, 50th out of 50 states, with the largest class sizes in the nation.
2. Recent budget cuts are putting our schools even farther behind. Over the last 3 years, more than \$20 billion has been cut from California schools; essential programs and services that all children need to be successful have been eliminated or cut; and over 40,000 educators have been laid off.
3. We are also failing with our early childhood development programs, which many studies confirm are one of the best educational investments we can make. Our underfunded public preschool programs serve only 40 percent of eligible 3 and 4 year olds. Only five percent of very low income infants and toddlers, who need the support most, have access to early childhood programs.
4. We can and must do better. Children are our future. Investing in our schools and early childhood programs to prepare children to succeed is the best thing we can do for our children and the future of our economy and our state. Without a quality education, our children will not be able to compete in a global economy. Without a skilled workforce, our state will not be able to compete for jobs. We owe it to our children and to ourselves to improve our children's education.
5. It is time to make a real difference: no more half-measures but real, transformative investment in the schools on which the future of our state and our families depends. This Act will enable schools to provide a well-rounded education that supports college and career readiness for every student, including a high quality curriculum of the arts, music, physical education, science, technology, engineering, math and vocational and technical education courses; smaller class sizes; school libraries, school nurses, and counselors.
6. This Act requires that decisions about how best to use new funds to improve our schools must be made not in Sacramento, but locally, with respect for the voices of parents, teachers, other school staff and community members. It requires local school boards to work with parents, teachers, other school staff and community members to decide what is most needed at each particular school.

7. In order for all our schools to be transformed, so that all our children benefit, this Act makes sure that new funding gets to every local school – including charter schools, county schools and schools for children with special needs – and is allocated fairly and transparently. New funding will be allocated to every local school on a per-pupil basis, with funds required to be spent at local schools, not district headquarters.

8. This measure holds local school boards accountable for how they spend new taxpayer money. They are required to explain how expenditures will improve educational outcomes and how they propose to determine whether the expenditures were successful. They will be required to report back on what results were achieved so that parents, teachers, and the community will know whether their money is being used wisely.

9. This Act limits what schools can spend from these new funds on administrative costs to no more than 1 percent and ensures schools may not use these new funds to increase salaries and benefits.

10. This Act will help prepare disadvantaged young children to succeed in school and in life by raising standards for early childhood education programs and by expanding the number of children who can attend.

11. As Californians, we all should share in the cost of improving our schools and early education programs because we all share in the benefits that better schools and a well-educated workforce will bring to our economy and the quality of life in our state.

12. Our schools and early childhood programs have suffered from years of being shortchanged. Rather than allow further cutbacks, we need to increase funding to provide every child an opportunity to succeed. If we all join together to send more resources to all our children and classrooms, and we all participate in ensuring good decisions are made about how to use these funds effectively, we can once again make California schools great and grow our economy.

13. This measure raises the money needed to invest in our children through a sliding scale income tax increase which varies with taxpayers' ability to pay, with the highest income earners contributing the most.

14. During the first four years of this initiative, as described below, 60% of the funds will go to K-12 schools, 10% will go to early education and 30% will go to reduce state debt and prevent further harmful budget cuts that could undermine these new educational investments. For the remaining eight years of the initiative, from 2017 on, one hundred percent of the funds will go to increase K-12 and early education funding. To avoid wide fluctuations in revenue and ensure continued investment in needed school and early education facilities, any revenues that exceed the rate of growth of California per capita personal income will be used to help service and pay down existing state education bond debt, ensuring California's ability to issue new bonds, as needed, to build and modernize school and early education facilities.



15. All the new money raised by this initiative will be put in a separate trust fund that can *only* be spent for local schools, for early childhood care and education, and to help service and retire school bond debt, according to the provisions of this Act. The Legislature and Governor will not be allowed to use this money for anything else, nor will they be able to change the per-pupil allocation system that ensures money flows fairly to every local school.

16. This initiative contains tough, effective accountability provisions that require oversight, audits and public disclosure. For the first time, we will have transparent school site budgets and know exactly how our money is being spent in every school. Anyone who knowingly violates the allocation or distribution provisions of this Act will be guilty of a felony.

17. The initiative also builds in an extra layer of accountability by ending the tax after twelve years unless it is re-approved by the voters. That gives our schools enough time to show that the new funds have actually improved educational outcomes, while protecting taxpayers by eliminating the tax if voters decide they don't want to keep it.

18. This initiative will be taking effect as California grapples with one of the worst economic downturns in its history. If the initiative were fully implemented immediately and nothing were done to help close our state's budget deficit, continuing extreme budget cuts could deprive our schools and children of the support they need to fully benefit from the educational investments provided by this Act. Therefore, this initiative will be implemented in two phases. For the first four fiscal years, until the end of 2016-2017, thirty percent (30%) of the funds—about \$3 billion—will go to service and retire state school bond and other bond debt, freeing up a like amount to meet other budget needs critical to the overall well-being of children and the families and communities in which they live. Beginning in fiscal 2017-2018, the initiative will be fully implemented, and one hundred percent of the funds will be new money, which cannot be used in place of Proposition 98 or any other current funding for K-12 education or early childhood programs. The result of this phased approach will be that, beginning immediately, seventy percent (70%) of the funds will be used to increase funding for schools and early education programs as required by this Act, and after four years, all of the funds—one hundred percent (100%)—must be spent for that purpose to fulfill our obligation to our children and our future..

### **SECTION 3. Purpose and Intent.**

The people of the State of California declare that this Act is intended to do the following:

1. To strengthen and support California's public schools, including charter schools, by increasing per-pupil funding to improve academic performance, graduation rates, and vocational, college, career and life readiness.

2. To strengthen and support the education of California's children by restoring funding, improving quality, and expanding access to early care and education programs for disadvantaged and at-risk children.
3. To create more accountability, transparency, and community involvement in how public education funds are spent.
4. To ensure that the revenues generated by this Act will be used for K-12 educational activities at the school site; to expand and strengthen early care and education for disadvantaged children; and, to the limited extent and under the limited circumstances specifically permitted by this Act, to strengthen the overall fiscal position of the state and encourage adequate future investment in educational facilities by reducing the burden of current state education bond debt.
5. To ensure that the revenues generated by this Act cannot be used to supplant existing state funding for K-12 education or early care and education.
6. To ensure that the Legislature cannot borrow or divert the revenues generated by this Act for any other purpose, nor dictate to local school communities how those funds shall be spent.

**SECTION 4. Part 9.7 is added to Division 1 of the Education Code, to read:**

Part 9.7. Our Children, Our Future: Local Schools, Early Education Investment and Bond Debt Reduction Act.

SEC. 14800. This part shall be known and may be cited as the Our Children, Our Future: Local Schools, Early Education Investment and Bond Debt Reduction Act.

SEC. 14800.5. For purposes of this Part, and of Chapter 1.8 of Part 6, Division 1 of this Code, the following definitions apply:

(a) "Local education agency" or "LEA" includes school districts, county offices of education, governing boards of independent public charter schools, and the governing bodies of direct instructional services provided by the state, including the California Schools for the Deaf and the California School for the Blind.

(b) "K-12 school" or "school" means any public school, including but without limitation any charter school, county school or school for special needs children, that annually enrolls, and provides direct instructional services to, students in any or all of grades kindergarten through 12 and that is under the operational jurisdiction of any LEA. The term "kindergarten" in this Part includes Transitional Kindergarten.

(c) "Early care and education" or "ECE" means preschool and other programs that are designed to care for and further the education of children from birth to kindergarten eligibility, including both programs providing early care and education to

children and programs that strengthen the early care and education capacity of parents and caregivers so that they can better serve children.

(d) For the 2013-2014 school year, a school's "enrollment" means the October enrollment figures reported for the 2012-13 school year, reduced or increased by the average percentage growth or decline in its October enrollment figures over the past three school years. For all subsequent years, a school's "enrollment" means the average monthly active enrollment for the prior school year calculated pursuant to section 46305 of this Code, or the October enrollment for the prior school year if the section 46305 figure is not available, reduced or increased by the average percentage growth or decline in these enrollment figures over the past three school years. Each LEA's enrollment shall be the sum of enrollments at all schools under that LEA's jurisdiction. Statewide enrollment shall be the sum of all LEAs' enrollments.

(e) "Educational program" means expenditures for the following purposes at a K-12 school site, approved at a public hearing by the governing board of the LEA with jurisdiction over the school, to improve the students' academic performance, graduation rates, and vocational, career, college and life readiness:

- (1) instruction in the arts, physical education, science, technology, engineering, mathematics, history, civics, financial literacy, English and foreign languages, and technical, vocational or career education;
- (2) smaller class sizes;
- (3) more counselors, librarians, school nurses and other support staff at the school site;
- (4) extended learning time through longer school days or longer school years, summer school, preschool, after school enrichment programs and tutoring;
- (5) additional social and academic support for English language learners, low income students and students with special needs;
- (6) alternative education models that build students' capacity for critical thinking and creativity; and
- (7) more communication and engagement with parents as true partners with schools in helping all children succeed.

(f) "CETF funds" means those revenues deposited in the California Education Trust Fund pursuant to Section 17041.1 of the Revenue and Taxation Code, together with all interest earned on those funds pending their initial allocation and all interest earned on any recaptured funds pending their reallocation.

(g) "Superintendent" or "State Superintendent" means the California State Superintendent of Public Instruction.

SEC. 14801. (a) The California Education Trust Fund is hereby created in the State Treasury. CETF funds are held in trust and, notwithstanding section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this Act.

(b) CETF funds transferred and allocated to or from the California Education Trust Fund shall not constitute appropriations subject to limitation for purposes of Article XIII B of the California Constitution. CETF funds are held in trust for purposes of this Act only and shall not be considered General Fund revenues or proceeds of taxes, and thus shall not be included in the calculations required by section 8 of article XVI of the California Constitution, nor subject to the provisions of section 12 of article IV or section 20 of article XVI of the California Constitution.

(c) CETF funds shall be allocated and used exclusively as set forth in this Act and shall not be used to pay administrative costs except as specifically authorized by the Act. Notwithstanding any other provision of law, CETF funds shall not be transferred or loaned to the General Fund or to any other fund, person or entity for any purpose or at any time except as expressly permitted in section 14813.

(d) CETF funds allocated to LEA's and the State Superintendent from the California Education Trust Fund shall supplement state, local and federal funds committed for public K-12 schools and early care and education as of November 1, 2012, and shall not be used to supplant or replace the per capita state, local or federal funding levels that were in place for these purposes as of that date, corrected for changes in the cost of living and, with respect to federal funds, for any overall decline in federal funding availability. The amounts appropriated from funds other than the CETF for support of the K-12 education system and early care and education programs, whether constitutionally mandated or otherwise, shall not be reduced as a result of funds allocated pursuant to this Act.

SEC. 14802. (a) The Fiscal Oversight Board is hereby created to provide oversight and accountability in the distribution and use of all CETF funds. The members of the Board are the State Controller, State Auditor, State Treasurer, Attorney General, and Director of Finance. The Fiscal Oversight Board shall be responsible for ensuring that CETF funds are distributed exactly as provided by this Act and are used solely for the purposes set forth in this Act.

(b) Notwithstanding any other provision of law, the actual costs incurred by the Fiscal Oversight Board, the Controller, and the State Superintendent in administering the California Education Trust Fund shall be paid by CETF funds; provided, however, that such costs may not exceed three-tenths of one percent of all revenues collected in the Fund over any three-year period, an average of one-tenth of one percent annually. Until the end of fiscal year 2016-2017, thirty percent (30%) of the costs authorized by this

section shall be deducted from the temporary support funds provided pursuant to section 14802.1, sixty percent (60%) of the costs authorized by this section shall be deducted from the funds set aside for K-12 pursuant to section 14803, and ten percent (10%) of the costs authorized by this section shall be deducted from the funds set aside for ECE pursuant to section 14803. Thereafter, eighty-five percent (85%) of the costs authorized by this section shall be deducted from the funds set aside for K-12, and fifteen percent (15%) shall be deducted from the funds set aside for ECE, pursuant to section 14803.

(c) The Fiscal Oversight Board may adopt such regulations, including emergency regulations, as are necessary to fulfill its obligations under this Act.

SEC. 14802.1. (a) Until the end of fiscal year 2016-17, the Controller shall allocate thirty percent (30%) of CETF Funds as provided in this section and the remainder in accordance with sections 14803, 14804, 14805, 14806 and 14807. Thereafter, all CETF Funds (100%) shall be allocated pursuant to sections 14803, 14804, 14805, 14806, and 14807.

(b) Until the end of fiscal year 2016-17, the term "CETF funds" as used in section 14803 shall refer to the seventy percent (70%) of CETF funds that are allocated in accordance with sections 14803, 14804, 14805, 14806 and 14808, and the term "temporary support funds" shall refer to the thirty percent (30%) of CETF funds that are allocated pursuant to this section.

(c) Until the end of fiscal year 2016-2017, on a quarterly basis, the Controller shall draw warrants on and distribute the temporary support funds to the Education Debt Service Fund established by section 14813 for distribution pursuant to that section.

SEC. 14803. (a) During the first two full fiscal years following the effective date of this Act, the Controller shall set aside eighty-five percent of CETF funds for allocation to local education agencies for K-12 schools, and fifteen percent of CETF funds for allocation to the State Superintendent for provision to early care and education programs, in the amounts and manner set forth in this Act. These funds, minus actual costs pursuant to subdivision (b) of section 14802, shall be deemed "available revenues" under section 14804.

(b) In order to provide stability and avoid wide fluctuations in funding, CETF funds shall be distributed as follows in each fiscal year subsequent to the first two full fiscal years following the effective date of this Act:

(1) (A) Commencing with the year 2015-16 and for every year other than 2017-18, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the CETF funds that were distributed to LEAs and the State Superintendent from the California Education Trust Fund in the fiscal year just ended.

(B) For 2017-2018 only, in order to make the transition from the temporary support funds provided by subdivision (a) of 14802.1 to full funding of K-12 schools and ECE programs, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the product of 1.429 times the amount of CETF funds that were distributed to LEAs and the State Superintendent from the California Education Trust Fund in the fiscal year just ended.

(2) The amount determined pursuant to paragraph (1), minus actual costs pursuant to subdivision (b) of section 14802, shall be deemed "available revenues" under section 14804 and shall be available for distribution on a quarterly basis to LEAs and the State Superintendent in the fiscal year then beginning.

(c) CETF funds that exceed available revenues shall be distributed at the end of the fiscal year pursuant to section 14813.

(d) All CETF funds allocated to LEAs must be spent by LEAs within one year of receipt; provided, however, that LEAs may carry over no more than ten percent of these moneys for expenditure in the following school year. The Fiscal Oversight Board shall recapture any funds not expended within the original one-year period and any funds carried over but not spent within the following year. All funds that are recaptured shall be deemed available revenues, shall be combined with other available revenues, and shall be reallocated in accordance with section 14804.

SEC. 14804. (a) On a quarterly basis, the Controller shall draw warrants on and distribute fifteen percent of the available revenues to the Superintendent of Public Instruction for provision to early care and education programs and supports in the manner and amounts provided by Chapter 1.8 of Part 6 of Division 1 of this Code.

(b) On a quarterly basis, the Controller shall draw warrants on and distribute eighty-five percent of the available revenues to LEAs, earmarked for expenditure at each K-12 school within each LEA's jurisdiction, in the amounts calculated by the Controller pursuant to sections 14805 through 14807.

(c) This section, and sections 14802.1, 14803, 14805, 14806 and 14807 are self-executing and require no legislative action to take effect. Distribution of CETF funds and temporary support funds shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to section 12 of article IV of the California Constitution, nor by any other action or inaction on the part of the Governor or the Legislature.

SEC. 14805. Of the available revenues allocated for quarterly distribution to LEAs under section 14804(b), the Controller shall distribute seventy percent as per-pupil educational program grants. The number and size of the educational program grants to be distributed to each LEA, and the number and size of the educational program grants to be earmarked for each K-12 school under the LEA's jurisdiction, shall be as follows:

(a) The Controller shall establish a uniform, statewide per-pupil grant for each of three grade level groupings: kindergarten through third grade (the "K-3 grant"), 4th through 8th grade (the "4-8 grant") and 9th through 12th grade (the "9-12 grant").

(b) These uniform grants shall be based on total statewide enrollment in each of the three grade level groupings. The per-pupil 4-8 grant amount shall be one hundred twenty percent of the per-pupil K-3 grant amount, and the per-pupil 9-12 grant amount shall be one hundred forty percent of the per-pupil K-3 grant amount.

(c) Each LEA shall receive the same number of K-3 grants as it has enrollment in kindergarten through third grade; the same number of 4-8 grants as it has enrollment in fourth through eighth grade; and the same number of 9-12 grants as it has enrollment in ninth through twelfth grade.

(d) Each of these per-pupil grants shall be earmarked for the specific K-12 school whose enrollment gave rise to the LEA's eligibility for that grant.

(e) The grade level adjustments provided in subdivisions (a) and (b) of this section shall be the only deviation allowed in the equal per-pupil distribution of the educational program funds to all K-12 schools according to their enrollments.

SEC. 14806. Of the available revenues allocated for quarterly distribution to LEAs under section 14804(b), the Controller shall distribute eighteen percent (18%) as low income per-pupil grants. The number and size of the low income per-pupil grants to be distributed to each eligible LEA, and the number and size of the low income per-pupil grants to be earmarked for each K-12 school under the LEA's jurisdiction, shall be as follows:

(a) Based on the total statewide enrollment of students in all K-12 schools who are identified as eligible for free meals under the Income Eligibility Guidelines established by the United States Department of Agriculture to implement the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 ("free meal eligible students"), the Controller shall establish a uniform, statewide per-pupil grant to provide additional educational support for these low income students ("the low income per-pupil grant").

(b) Each LEA shall receive the same number of low income per-pupil grants as it has free meal eligible students.

(c) Each of these low income per-pupil grants shall be earmarked for the specific K-12 school whose free meal eligible student enrollment gave rise to the LEA's eligibility for that grant.

SEC. 14807. Of the available revenues allocated for quarterly distribution to local education agencies under section 14804(b), the Controller shall distribute twelve percent

for training, technology and teaching materials grants on a per pupil basis. The number and size of these grants to be distributed to each LEA, and the number and size of the grants to be earmarked for each K-12 school under the LEA's jurisdiction, shall be as follows:

(a) Based on total statewide enrollment for all K-12 schools, the Controller shall establish a uniform, statewide per-pupil grant to support increased instructional skills for K-12 school staff and up-to-date technology and teaching materials ("training, technology and teaching materials grants" or "3T grants").

(b) Each LEA shall receive the same number of 3T grants as it has students, based on the LEA's enrollment.

(c) Each of these per-pupil 3T grants shall be earmarked for the specific K-12 school whose enrollment gave rise to the LEA's eligibility for that grant.

SEC. 14808. (a) With the limited exceptions provided in subdivision (c)(2) of this section, funds LEAs receive pursuant to sections 14805, 14806 and 14807 shall be expended or encumbered only at the specific K-12 school for which they were earmarked pursuant to subdivisions 14805(d), 14806(c) and 14807(c), respectively, and shall be used exclusively for purposes authorized by this section.

(b) Educational program and low income student grants may be used for educational programs or, up to a total of 200 percent of any school's 3T grants, for any purpose permitted for a 3T grant. 3T grants must be spent exclusively for up-to-date teaching materials and technology and to strengthen skills of school staff in ways that improve students' academic performance, graduation rates, and vocational, career, college and life readiness.

(c)(1) Other than as specifically provided for in paragraph (2) of this subdivision, all funds received pursuant to sections 14805 through 14807 shall be spent only for the direct provision of services or materials at K-12 school sites and cannot be spent on any service or material not physically delivered to the school or its students; nor for any full-time personnel who do not spend at least ninety percent of their compensated time physically present at the school or with the school's students; nor for any personnel except to cover the amount of time the personnel are physically present at the school or with the school's students; nor for any direct or indirect administrative costs incurred by the LEA.

(2)(i) The governing board of each LEA may withhold, on an equal percentage basis from each of the per-pupil grants it receives, an amount sufficient to cover its actual costs in complying with this Part's public meeting, audit, budget and reporting requirements. Funds withheld for such purposes may not exceed two percent of total grants received in any two-year period, an average of one percent per year.



(ii) Costs of skills improvement programs provided off-site to members of the school's staff specifically to enhance their skills in providing services at the site or to the school's students may be covered by these per-pupil grants, when the off-site provision of such services is more cost effective than on-site provision.

(d) No CETF funds may be used to increase salary or benefits for any personnel or category of personnel beyond the salary and benefits that were in place for those personnel or that category of personnel as of November 1, 2012; provided, however, that positions partially or totally funded by the Act may receive from CETF funds salary and benefit increases adopted by a governing board and equivalent to increases being received by other like employees in the school on a proportional basis to their partial or full-time status.

SEC. 14809. (a) No later than 30 days following each quarterly allocation of CETF funds to LEAs, the Fiscal Oversight Board shall create a list of each LEA that received funds and the amount of funds earmarked for each school within that LEA under each of the funding categories specified in sections 14805, 14806 and 14807. The Board shall publish this list online at a suitable location, and the Superintendent shall publish a link to the online listing in a prominent spot on the home page of the Superintendent's website.

SEC. 14810. Neither the Legislature nor the Governor, nor any other state or local governmental body except the governing board of the LEA that has operational jurisdiction over a school, may direct how CETF funds are used at that school. Each LEA's governing board shall have sole authority over that decision, subject, however, to the following: Each year the governing board, in person or through appropriate representatives, shall seek input, at an open public meeting with the school's parents, teachers, administrators, other school staff and students, as appropriate (the "school community"), at or near that school's site, about how CETF funds will be used at that school and why. Following that meeting, the LEA or its appropriate representatives shall offer a written recommendation for use of CETF funds at a second open public meeting at or near the school site at which the school community is given an opportunity to respond to the LEA's recommendation. The governing board shall ensure that, during the decision-making process regarding use of CETF funds, all members of the school community are provided an opportunity to submit input in writing or online. At the time it makes its decision about the use of the funds each year, the governing board shall explain, publicly and online, how its proposed expenditures of CETF funds will improve educational outcomes and how the board will determine whether those improved outcomes have been achieved.

SEC. 14811. (a) As a condition of receiving any CETF funds, each LEA shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as the California Education Trust Fund account. Each LEA shall allocate and spend the funds in that account solely in accordance with sections 14805 through 14808.

(b) The independent financial and compliance audit required of school districts shall, in addition to all other requirements of law, ascertain and verify whether CETF funds have been properly disbursed and expended as required by this Part. This requirement shall be added to the audit guide requirements for school districts and shall be part of the audit reports annually reviewed and monitored by the Controller pursuant to section 14504.

(c) LEAs shall annually prepare and post on their websites, within 60 days after the close of each school year, a clear and transparent report of exactly how CETF funds were spent at each of the schools within their jurisdiction, what the goals for those expenditures were as relayed to the school community under section 14810, and the extent to which they achieved the goals established. The State Superintendent shall provide a link on his or her website that enables community members and researchers to access all such reports statewide within two weeks after they are posted by LEAs.

SEC. 14812. (a) Beginning with the 2012-13 school year, as a condition of receiving CETF funds, the governing board of each LEA that receives funds under this Act shall create and publish online a budget for every school within the LEA's jurisdiction that compares actual funding and expenditures for that school from the prior fiscal year with the budgeted funding and expenditures for that school for the current fiscal year. The website of the Superintendent shall provide a link enabling community members and researchers to access all such budgets statewide, for current and past years, dating back to 2012-2013. The budget shall show the source and amount of all funds being spent at the school, including but not limited to funds provided under this Act, and how each source category of funds is being spent. The budget shall be in a uniform format designed and approved by the Superintendent of Public Instruction. Expenditures shall be reported overall per pupil and by average teacher salary, as well as by instruction, instructional support, administration, maintenance and other important categories. The Department of Education shall require and ensure that districts and schools uniformly report expenditures by appropriate category and uniformly distinguish between school and district expenditures. The budget shall also include personnel costs described by number, type, and seniority of personnel and use actual salary and benefit figures for employees at the school without any individual identifying information. Each K-12 school receiving money from the California Education Trust Fund shall also include these funds as a separate section in a single school plan which substantially meets the criteria of sections 64001(d), (f) and (h).

(b) Allocations from the California Education Trust Fund are intended to provide students with additional supports and programs beyond those currently provided from other state, local, and federal sources. Beginning in fiscal year 2013-14, LEAs shall make every reasonable effort to maintain, from funds other than those provided under this Act, per-pupil expenditures at each of their schools at least equal to the 2012-13 per-pupil expenditures, adjusted for changes in the cost of living. This shall be known as the "maintenance of effort target" for that school. The uniform school site budget required by subdivision (a) shall include a clear statement of what the per-pupil expenditures were at that school in 2012-13 from all fund sources other than those provided under this Act,

and a projection of what those expenditures would be for the current school year if the school had annually met its maintenance of effort target. If in any year an LEA cannot meet its maintenance of effort target for any of its schools, it will explain why in its school site budget for that school and will discuss that explanation at a public meeting to be held at or near the school site pursuant to section 14810. At that meeting, officials from the LEA shall address why it is not possible to meet the maintenance of effort target for that particular school, and how the agency proposes to keep the failure to meet the target from having a negative impact on students and their families.

SEC. 14813. (a) Funds allocated pursuant to section 14802.1(a) and CETF funds that are determined by the Fiscal Oversight Board to exceed both available revenues and the Board and Controller's actual reimbursable costs pursuant to section 14803 shall be transferred on a quarterly basis by the Controller to the Education Debt Service Fund, which is hereby created in the State Treasury. Education Debt Service Fund moneys are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this section.

(b) Moneys in the Education Debt Service Fund shall be used solely to pay debt service on bonds; or to redeem or defease bonds, maturing in a subsequent fiscal year, that either (i) were or are issued by the state for the construction, reconstruction, rehabilitation, or replacement of pre-kindergarten through university school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for such school facilities ("school bonds"); or (ii) to the limited extent permitted by subdivision (c) of this section, were or are issued by the state for children's hospital or other general obligation bonds.

(c) From moneys transferred to the Education Debt Service Fund, the Controller shall transfer, as an expenditure reduction to the General Fund, amounts necessary to offset the cost of current year debt service payments made from the General Fund on school bonds, children's hospital, or other general obligation bonds, or to redeem or defease school bonds, children's hospital, or other general obligation bonds, as directed by the Director of Finance; provided, however, that no funds in the Education Debt Service Fund shall be used to offset the cost of current year debt service payments on children's hospital or other general obligation bonds, or to redeem or defease children's hospital or other general obligation bonds, until and unless the Controller, at the direction of the Director of Finance, has first fully reimbursed the General Fund for the cost of current year debt service payments on all outstanding school bonds. Funds so transferred shall not constitute General Fund proceeds of taxes appropriated pursuant to article XIII B for purposes of section 8 of article XVI of the California Constitution.

SEC. 14814. (a) No later than six months following the end of each fiscal year, the Fiscal Oversight Board shall cause an independent audit to be conducted of the California Education Trust Fund and shall submit to the Legislature and Governor, and shall post prominently on the website of the Fiscal Oversight Board, with a link to the report clearly displayed on the Superintendent's home page, both the full audit report and

an easily understandable summary of the results of that audit. The report shall include an accounting of all proceeds of the personal tax increments established pursuant to sections 17041.1 of the Revenue and Taxation Code, all transfers of those proceeds to the California Education Trust Fund, a listing of the amount of funds received from the California Education Trust Fund that fiscal year by each LEA and each school within that LEA's jurisdiction, and a summary, based on the reports required of all LEAs by section 14811(c), showing the way each LEA used the funds at each of its schools and the results the LEA was seeking and achieved.

(b) The Superintendent of Public Instruction, in consultation with the Fiscal Oversight Board, shall design and provide to each LEA and early care and education provider a form or format for ensuring uniform reporting of the information required for the audit report.

(c) The costs of performing the annual audit, and of creating, distributing and collecting the required reports, shall be determined by the Fiscal Oversight Board to ensure prudent use of funding while ensuring the intent of this Act is carried out. Such costs shall be included within the items whose actual cost may be paid for by CETF funds pursuant to subdivision (b) of section 14802.

(d) In the course of performing and reporting on the annual audit, the independent auditor shall promptly report to the Attorney General and the public any suspected allocation or use of funds in contravention of this Act, whether by the Fiscal Oversight Board or its agents, or by any LEA.

(e) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 who knowingly fails to allocate or distribute the funds to each LEA and each local school on a per-pupil basis as specified in those sections is guilty of a felony subject to prosecution by the Attorney General, or if he or she fails to act promptly, the district attorney of any county, pursuant to subdivision (a) of Section 425 of the Penal Code. The Attorney General, or if the Attorney General fails to act the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807 of this Code.

**SECTION 5. Section 46305 of the Education Code is amended to read:**

SEC. 46305. Each elementary, high school, and unified school district, *and each independent charter school, county office of education and state-run school*, shall report to the Superintendent of Public Instruction on forms prepared by the Department of Education in addition to all other attendance data as required, the active enrollment as of the third Wednesday of each school month and the actual attendance on the third Wednesday of each school month; except that if such day is a school holiday, the active enrollment and actual attendance of the first immediate preceding schoolday shall be reported. "Active enrollment" on a day a count is taken means the pupils in enrollment in

the regular schooldays of the district on the first day of the school year on which the schools were in session, plus all later enrollees, minus all ~~withdrawals since that day~~ pupils who have not been in attendance for at least one day between the first day of the school year or the first schoolday immediately following the next preceding day for which a count was taken pursuant to this section, whichever is later, and the day the count is being taken, inclusive. The Superintendent of Public Instruction may, as necessary, modify the collection dates or methodologies in order to reduce any local agency's administrative duties in the implementation of this section.

**SECTION 6. Chapter 1.8 is added to Part 6 of Division 1 of the Education Code to read:**

**EARLY CHILDHOOD QUALITY IMPROVEMENT AND EXPANSION  
PROGRAM**

**ARTICLE 1. GENERAL PROVISIONS**

SEC: 8160. The following definitions shall apply throughout this Chapter:

(a) The terms "early care and education program" or "ECE program" mean any state-funded or state-subsidized preschool, child care or other state-funded or state-subsidized early care and education program for children from birth to kindergarten eligibility, including but not limited to programs supported in whole or in part with funds from the California Children and Families Trust Fund. Where an ECE program is not funded exclusively with state funds, the term "ECE program" means that portion of the program that is state-funded.

(b) The term "ECE provider" or "provider" means any person or agency legally authorized to deliver an ECE program.

(c) The term "take-up rates" means the degree to which ECE providers apply for and are granted program funding under the provisions of this Chapter.

(d) The term "reimbursement rate" means the per-child payment ECE providers receive on behalf of eligible families from state funds to cover their costs in providing ECE services.

(e) The term "ECE funds" means the funds allocated to early care and education pursuant to sections 14803 and 14804 of this Code.

(f) The term "SAE funds" means funds set aside for strengthening and expanding ECE programs pursuant to section 8161(b) of this Chapter.

(g) The term "highly at-risk children" means children who are from low income birth families, low income foster families or low income group homes and who also (1) are in foster care or have been referred to Child Protective Services, (2) are the

children of young parents who are themselves in foster care, or (3) are otherwise abused, neglected or exploited, or provably in danger of being abused, neglected or exploited, as will be further defined by the State Superintendent.

SEC. 8161. ECE funds shall be allocated annually to the State Superintendent to be used as follows:

(a) No more than twenty-three percent of the ECE funds shall be used as follows:

(1) \$300 million for existing ECE programs to restore funding to fiscal year 2008-2009 levels in proportion to reductions made to each ECE program in fiscal years 2009-10 through 2012-2013, subject to the following:

- (i) Restoration will apply equally to all types of reductions, whether accomplished by reduced child eligibility, reduced reimbursement rates, reduction in contract amounts, reduction in number of contracts let, or otherwise;
- (ii) To the extent the State Superintendent must allocate funds to the Department of Social Services or any successor agency to accomplish this restoration of funds, he/she will do so;
- (iii) If the State Superintendent and the Department of Social Services jointly find that any funds cannot be restored due to shortfalls in take-up rates, those funds shall be used to increase the baseline quality reimbursement rates established pursuant to Section 8168(b) of this Chapter.

(2) \$5 million to the Community Care Licensing department of the Department of Social Services, or any successor agency, to increase the frequency of licensing inspections of ECE providers beyond 2011-12 levels under terms agreed upon by the State Superintendent and the Department of Social Services or any successor agency by no later than July 1, 2013.

(3) Up to \$10 million to develop and implement the database established pursuant to Section 8171 of this Chapter to track the educational progress of children who have participated in the state's ECE programs.

(4) \$40 million to develop, implement, and maintain the Early Learning Quality Rating and Improvement System ("the QRIS system") established pursuant to Article 4 of this Chapter. Funds provided by this section shall not be used for increases in provider reimbursement rates or other provider compensation but rather for the design, implementation, and evaluation of the system, for ECE provider assessment and skills development, for improving and expanding the ECE skills development programs offered by community colleges and other high-quality trainers, for data keeping and analysis, and for communication with the public about the quality levels being achieved by ECE providers.

(5) The amounts set forth in paragraphs 1 through 4 of this subdivision shall be adjusted annually by the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1 as it read on the date of enactment of this section.

(6) In any year in which ECE funds are insufficient to cover the requirements of paragraphs (1), (3) and (4) of this subdivision, the amounts required by those paragraphs shall be reduced pro-rata.

(b) After allocating the restoration and system improvement funds provided in subdivision (a) of this section, the State Superintendent shall use the remaining ECE funds, to be known as "the SAE funds" pursuant to section 8160(f), to Strengthen And Expand ECE programs as set forth in this Chapter.

(c) ECE funds allocated to the State Superintendent must be spent for the purposes provided in this Chapter within one year of their receipt by the State Superintendent. The Fiscal Oversight Board established pursuant to section 14802 of this Code shall annually recover any unspent funds, and they shall again become part of the ECE funds, to be re-allocated pursuant to this Chapter.

SEC. 8162. (a) Except as may be required by federal law, any child's eligibility for any ECE program, including but not limited to any ECE program established, improved, or expanded with funds allocated under this Chapter, shall be established once annually upon the child's enrollment in the program. Subsequent to enrollment, a child shall be deemed eligible to participate in the program for the remainder of the program year, and then may re-establish eligibility in subsequent years on an annual basis.

(b) Beginning in fiscal year 2013-2014, the annual appropriation for ECE programs as a percentage of the General Fund shall not be reduced as a result of funds allocated pursuant to this Act below the percentage of General Fund revenues appropriated for ECE programs in 2012-2013.

SEC. 8163. The State Superintendent shall allocate SAE funds as follows:

(a) Twenty-five percent of the SAE funds shall be allocated for the benefit of children aged birth to 3 years pursuant to this subdivision as follows:

(1) Up to one percent of the SAE funds shall be allocated to raise the reimbursement rate in contracted group care programs for children younger than 18 months to the baseline quality reimbursement rate established pursuant to section 8168(b);

(2) Up to two and a half percent of the SAE funds, as take-up rates permit, shall be allocated to increase reimbursement rates above 2012-13 rates through a supplement provided under the QRIS system for those ECE programs and providers serving children aged birth to 3 years that improve their quality standards under the QRIS system or

demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to section 8168(b);

(3) Twenty-one and a half percent of the SAE funds shall be allocated to the California Early Head Start program established pursuant to Article 2. No less than thirty-five percent of the SAE funds allocated to the California Early Head Start program under this paragraph shall be used specifically for strengthening parents and other caregivers pursuant to section 8164(d) of Article 2.

(b) Seventy-five percent of the SAE funds shall be used to expand and strengthen preschool programs for children ages 3-5 years, as set forth in Article 3.

(c) No more than three percent of the SAE funds shall be spent for administrative costs incurred at the state level.

(d) No more than fifteen percent of the funding an ECE provider receives from SAE funds may be used for re-purposing, renovation, development, maintenance or rent and lease expense for an appropriate program facility. The State Superintendent shall promulgate appropriate regulations to oversee and structure appropriate use of SAE funds for facilities.

## **ARTICLE 2. CALIFORNIA EARLY HEAD START PROGRAM**

SEC. 8164. Using the funds allocated pursuant to section 8163(a)(3), the State Superintendent shall develop and implement the California Early Head Start Program to expand care for children ages birth to 3 years as follows:

(a) The program shall be under the ongoing regulation and control of the State Superintendent, but it shall be modeled on the federal Early Head Start program established pursuant to 42 U.S.C. § 9840a. In consultation with the Early Learning Advisory Council described in section 8167 (the "ELAC"), the State Superintendent shall ensure that, at minimum, the program complies with all content and quality standards and requirements in place as of November, 2011 for the federal Early Head Start program. The Superintendent may adopt subsequent Early Head Start program standards and requirements at his or her discretion.

(b) Funds used for the California Early Head Start program shall not be used to supplant money currently spent on any other state or federal program for children ages birth to 3.

(c) The Superintendent shall adopt the same eligibility standards used by the federal Early Head Start program as of November, 2011; provided, however, that highest priority for enrollment will go first to highly at-risk children as defined in Section 8160(g)(1), then to highly at-risk children as defined in Section 8160(g)(2), and then to highly at-risk children as defined in Section 8160(g)(3).



(d) In addition to providing high quality group care in licensed centers and family child care homes, the California Early Head Start program shall provide services to families and caregivers of children who are not enrolled in a California Early Head Start group care setting. These services shall be designed to strengthen the capacity of parents and caregivers of children ages birth to 3 to improve the care, education and health of very young children both in group care settings and at home. Services may include any of those that may be offered to families of federal or California Early Head Start group care enrollees, including but not limited to voluntary home visits, early developmental screenings and interventions, family and caregiver literacy programs, and parent and caregiver trainings. Among programs provided to caregivers pursuant to this subdivision, priority will go to programs for license-exempt family, friend and neighbor providers.

(e) In consultation with the ELAC, the State Superintendent shall establish quality standards for the services provided under subdivision (d) of this section, incorporating the standards and training regimens of the federal Early Head Start program. The State Superintendent shall coordinate with other public agencies that operate similar programs to ensure uniform standards across these programs.

(f) California Early Head Start funds may be used to expand the number of children served by existing ECE programs for children ages birth to 3, provided that the programs meet the quality standards described in subdivisions (a) and (e) of this section and the children served meet the eligibility criteria of subdivision (c) of this section.

(g) At least seventy-five percent of the group care spaces created statewide with California Early Head Start funds shall provide full-day, full-year care.

### **ARTICLE 3. STRENGTHENING AND EXPANDING PRESCHOOL PROGRAMS**

SEC. 8165. (a) SAE funds allocated to strengthen and expand preschool programs for 3-5 year olds pursuant to Section 8163(b) shall be allocated as follows:

(1) Up to eight percent of SAE funds, as take-up rates permit, to increase reimbursement rates above 2012-2013 rates through a supplement provided under the QRIS system for those ECE programs and providers serving children ages 3 to 5 years that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to section 8168(b);

(2) The remainder, no less than sixty-seven percent of all SAE funds, shall be used to expand the number of children served by high quality preschool programs for 3 to 5 year-olds in licensed or K-12 based programs that meet the two highest quality ratings established under the QRIS system. Until the statewide QRIS is established and able to assess the quality of significant numbers of programs, the State Superintendent may issue temporary regulations authorizing use of the expansion funds described in this subdivision for programs otherwise shown to meet high quality standards, including but

not limited to programs having ratings in the top two tiers of pre-existing local or regional QRIS systems, programs with nationally-recognized quality accreditations, or programs meeting the quality standards applicable to Transitional Kindergarten. QRIS program standards shall be established and publicly available no later than January 1, 2014. Providers qualified under the Superintendent's temporary regulations shall receive priority for evaluation under the new system. The temporary regulations shall sunset on January 1, 2015 and the provisionally certified providers must then, to retain funding, be qualified under the established QRIS program standards by no later than January 1, 2017.

(3) At least sixty-five percent of the new spaces created statewide pursuant to subdivision (2) of this section shall be full-day, full-year spaces, which may be created solely through this Chapter or by combining funding from two or more sources to create a combined school day, after-school, and summer enrichment program.

(b) Children shall be deemed to be "3 to 5" and thus eligible for programs funded pursuant to subdivision (a)(2) of this section, if they are 3 or 4 years old as of September 1 of the school year in which they are enrolled in the programs and are not yet eligible to attend kindergarten.

SEC. 8166. (a) Using data from the United States Census Bureau, the State Superintendent shall disburse the funds allocated pursuant to subdivision (a)(2) of Section 8165 (the "preschool expansion funds") according to an income-ordered list of all California neighborhoods, starting with the lowest income neighborhood and progressing as far up the list of neighborhoods by income as the preschool expansion funds permit, as follows:

(1) The State Superintendent shall create a neighborhood list based on median household income and on neighborhoods as defined by zip codes or an equivalent geographic unit. Throughout this section, the term "neighborhood" means a zip code or equivalent geographic unit included in the neighborhood list. Using available data on ECE availability, the State Superintendent shall identify annually the neighborhoods and school districts within which children live who are age-eligible for preschool expansion funds and who do not currently have access to an ECE program or a Transitional Kindergarten program.

(2) For each zip code or equivalent geographic unit, the Superintendent shall determine the number of eligible, unserved children and inform the school district, the licensed Family Child Care Home Education Networks ("licensed networks"), the licensed center-based ECE providers, and the providers of Head Start or other federal ECE programs ("federal providers") operating within the zip code or equivalent geographic unit that they are eligible to expand their programs to serve these children, and solicit applications from them for preschool expansion funding. To be eligible for funding, applicants must be able and willing to serve the eligible children for whom they are applying in the first school year following notification of eligibility.

(3) Licensed networks, licensed center-based ECE programs and federal providers operating within the zip code or other geographic unit will have priority if there are duplicate applications for the same eligibility. By awarding priority to joint applications, the State Superintendent shall encourage school districts, licensed networks, licensed center-based ECE providers and federal providers in eligible areas to cooperate in a joint application that maximizes the strengths of all programs and minimizes disputes. If the eligible school district, the eligible networks, the eligible center-based programs and the federal providers are all unable or decline to serve children they are eligible to serve, or any of them, the State Superintendent shall request proposals from alternative qualified local education agencies, licensed networks, licensed center-based ECE providers and federal providers to serve the eligible children. In seeking alternative qualified providers, the State Superintendent will communicate, specifically but without limitation, with alternative payment providers working in the county where the eligible children reside.

(4) Attendance at preschool, including preschool programs established or expanded pursuant to this Chapter, is voluntary. Unfilled spaces that have been offered in any zip code or equivalent geographic unit for three consecutive years, with effective outreach throughout the eligible community, but have still not been filled, may be deemed declined, and may be offered to the next highest income neighborhood on the neighborhood list.

(5) At least once every five years, the State Superintendent shall review which spaces have been deemed declined and shall restore lost eligibility to any neighborhood to the extent changed conditions indicate that the spaces would now be filled.

(b) Children will be eligible to attend programs funded with preschool expansion funds upon proving either that they reside in an eligible zip code or equivalent geographic unit or that their families meet the income eligibility requirements of any existing means-tested ECE program; provided, however that highest priority for enrollment will go first to highly at-risk children as defined in Section 8160(g)(1), then to highly at-risk children as defined in Section 8160 (g)(2), and then to highly at-risk children as defined in Section 8160(g)(3).

#### **ARTICLE 4. CALIFORNIA EARLY LEARNING QUALITY RATING AND IMPROVEMENT SYSTEM**

SEC. 8167. As used in this article, the term "Early Learning Advisory Council (ELAC)" means the Early Learning Advisory Council established pursuant to Executive Order S-23-09 or any successor agency.

SEC. 8168. (a) Taking into consideration the report and recommendations prepared by the California Early Learning Quality Improvement System Advisory Committee in 2010, the State Superintendent, in consultation with the ELAC, shall develop and implement an Early Learning Quality Rating and Improvement System ("QRIS system") by no later than January 1, 2014, that includes the following:

(1) A voluntary quality rating scale available to all ECE programs, including preschool, that serve children from birth to five years of age, inclusive, including preschool age children, infants, and toddlers. The quality rating scale shall give highest priority to those features of ECE programs that have been demonstrated to contribute most effectively to young children's healthy social and emotional development and readiness for success in school;

(2) A voluntary assessment and skills-development program to help ECE providers increase the quality ratings of their programs under the QRIS system;

(3) A method for increasing reimbursement rates above 2011-12 rates through a supplement provided for ECE programs and providers that improve their ratings or verify that they already meet higher ratings standards under the QRIS system;

(4) A means by which parents and caregivers receive accurate information about the quality and type of program in which their children are enrolled or may be enrolled, including prompt publication of the quality ratings of programs and providers conducted pursuant to the QRIS system.

(b) The State Superintendent, in consultation with the ELAC, shall also establish baseline quality reimbursement rates that are sufficient to cover the cost of providing ECE programs at the quality standards applicable to those programs under the laws and regulations that governed those programs as of November 1, 2012 (the "baseline quality reimbursement rate"). If any current reimbursement rate is below the baseline quality reimbursement rate, the State Superintendent may use any funds available under section 8161(a)(1)(iii), or for programs for children younger than 18 months, the funds available under section 8163(a)(1), to increase that reimbursement rate.

SEC. 8169. (a) The ELAC and the State Superintendent shall collaborate with Local Planning Councils, the First 5 California Commission, and each county First 5 commission to develop and oversee the QRIS, California Early Head Start and preschool expansion programs established pursuant to Articles 2, 3, and 4 of this Act. They shall work together to utilize local, state, federal, and private resources, including resources available pursuant to the California Children and Families Act of 1998 (Division 108 (commencing with Section 130100) of the Health and Safety Code), as part of a comprehensive effort to advance the efficiency, educational and developmental effectiveness, and community responsiveness of the state's ECE system.

(b) The ELAC shall hold at least one joint public meeting each year in each region of the state with the region's Local Planning Councils and the region's county First 5 Commissions (alternatively known as California Children and Families Commissions) to receive public input and report on the progress of the programs established pursuant to this Act.

(c) Funds provided under Section 8161(a)(4) of this Chapter may be used to fund the collaboration and convening activities required by this Section.

SEC. 8170. (a) The State Superintendent shall account for moneys received pursuant to this Chapter separately from all other moneys received or spent and shall, within 90 days after the close of each fiscal year, prepare an annual report that lists the ECE programs that received funding with their quality ratings as available; the amounts each program received; the number of children they served; the types of services the children received; and the child outcomes achieved as available. The Superintendent shall post the report as soon as it is prepared on the Superintendent's website and provide a link to it on his/ her home page. The report shall be included in the Superintendent's report issued pursuant to section 8236.1. The Fiscal Oversight Board shall verify the contents of the report and include it in the annual audit report required by section 14814(a) of this Code.

(b) The State Superintendent shall also:

(1) Monitor the award of contracts to ensure that ECE providers meet quality standards;

(2) Ensure uniform financial reporting and independent annual audits for all ECE providers receiving funds under this Chapter; and

(3) Receive, investigate, and act upon complaints regarding any aspect of the programs established pursuant to this Chapter.

SEC. 8171. By no later than July 1, 2014, the State Superintendent shall ensure that every child ages birth-5 years who participates in an ECE program is assigned a unique identifier that is recorded and maintained as part of a statewide database (the "Early Education Services Database").

(a) The Early Education Services Database shall be an integral part of the California Pupil Achievement Data System (CALPADS) – or any successor student-level data system that can trace a child's educational path from birth to age 18 – so that any child's full educational history, including ECE participation, will be automatically accessible through the child's unique identifier.

(b) At a minimum, the Early Education Services Database shall include the following for each child:

(1) The child's zip code of residence each year;

(2) What ECE services the child received each year, such as whether the child attended a full or part-day program;

(3) The setting in which the services were delivered;

(4) The agency that delivered the services;

(5) The QRIS rating and any other quality rating available for that ECE provider;

(6) The child's kindergarten-readiness assessment, if available, including but not limited to the child's primary home language, level of fluency, and whether screened for early intervention.

(c) CALPADS will be reimbursed for its actual cost of implementing this section, up to the annual amount allocated in section 8161(a)(3) of this Chapter.

SEC. 8172. The State Superintendent of Public Instruction shall issue regulations, including emergency regulations, in order to implement this Chapter.

**SECTION 7. Section 425 of the Penal Code is amended to read:**

SEC. 425. (a) Every officer charged with the receipt, safe keeping, or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of a felony.

*(b) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code who knowingly fails to allocate or distribute the funds to each local educational agency or each local school on a per-pupil basis as specified in those sections is guilty of a felony, subject to prosecution by the Attorney General, or if he or she fails to act promptly, the district attorney of any county. The Attorney General, or if the Attorney General fails to act the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807 of this Code. Any person guilty of violating this subdivision shall be punished pursuant to Section 18 of this Code and shall be disqualified from holding any office in this state.*

**SECTION 8. Section 17041.1 is added to the Revenue and Taxation Code to read:**

SEC. 17041.1. (a) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under Section 17041(a) to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013 and before January 1, 2014 shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:  
Not over \$7,316

The additional tax on taxable income is:  
0

Over \$7,316 but not over \$17,346	0.4% of the excess over \$7,316
Over \$17,346 but not over \$27,377	\$40 plus 0.7% of the excess over \$17,346
Over \$27,377 but not over \$38,004	\$110 plus 1.1% of the excess over \$27,377
Over \$38,004 but not over \$48,029	\$227 plus 1.4% of the excess over \$38,004
Over \$48,029 but not over \$100,000	\$368 plus 1.6% of the excess over \$48,029
Over \$100,000 but not over \$250,000	\$1,199 plus 1.8% of the excess over \$100,000
Over \$250,000 but not over \$500,000	\$3,899 plus 1.9% of the excess over \$250,000
Over \$500,000 but not over \$1,000,000	\$8,649 plus 2.0% of the excess over \$500,000
Over \$1,000,000 but not over \$2,500,000	\$18,649 plus 2.1% of the excess over \$1,000,000
Over \$2,500,000	\$50,149 plus 2.2% of the excess over \$2,500,000

(b) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under Section 17041(c) to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013 and before January 1, 2014 shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	The additional tax on taxable income is:
Not over \$14,642	0%
Over \$14,642 but not over \$34,692	0.4% of the excess over \$14,642
Over \$34,692 but not over \$44,721	\$80 plus 0.7% of the excess over \$34,692
Over \$44,721 but not over \$55,348	\$150 plus 1.1% of the excess over \$44,721
Over \$55,348 but not over \$65,376	\$267 plus 1.4% of the excess over \$55,348
Over \$65,376 but not over \$136,118	\$408 plus 1.6% of the excess over \$65,376
Over \$136,118 but not over \$340,294	\$1,540 plus 1.8% of the excess over \$136,118
Over \$340,294 but not over \$680,589	\$5,215 plus 1.9% of the excess over \$340,294
Over \$680,589 but not over \$1,361,178	\$11,680 plus 2.0% of the excess over \$680,589
Over \$1,361,178 but not over \$3,402,944	\$25,292 plus 2.1% of the excess over \$1,361,178
Over \$3,402,944	\$68,169 plus 2.2% of the excess over \$3,402,944

(c) For taxable years beginning on or after January 1, 2014, the additional tax imposed under this section shall be computed based on the tax rate tables described in subdivisions (a) and (b), with the brackets in effect for taxable years beginning on or after January 1, 2013 and before January 1, 2014, adjusted annually as provided by subdivision (h) of Section 17041 for the change in the California Consumer Price Index.

(d) Except as provided in subdivisions (e) and (f), the additional tax imposed under this section shall be deemed to be a tax imposed under Section 17041 for purposes of all other provisions of this code, including Section 17045 or any successor provision relating to joint returns.

(e) The estimated amount of revenues, less refunds, derived from the additional tax imposed under this section shall be deposited on a monthly basis in the California Education Trust Fund, established by Section 14801 of the Education Code, in a manner that corresponds to the process set forth in Section 19602.5 and is established by regulation by the Franchise Tax Board, based on the additional tax imposed under this section, no later than December 1, 2012. The adoption, amendment, or repeal of a regulation authorized by this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) Notwithstanding Section 13340 of the Government Code, the California Education Trust Fund is hereby continuously appropriated, without regard to fiscal year, solely for the funding of the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act.

(g) The additional tax imposed under this section does not apply to any taxable year beginning on or after January 1, 2025, except as may otherwise be provided in a measure that extends the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act and is approved by the electorate at a statewide election held on or before the first Tuesday after the first Monday in November of 2024.

**SECTION 9. Section 19602 of the Revenue and Taxation Code is amended to read:**

SEC. 19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, ~~and~~ revenues deposited pursuant to Section 19602.5, *and revenues collected pursuant to Section 17041.1*, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

**SECTION 10. Severability.**

The provisions of this Act are meant to be severable. If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions of the Act or the application of this measure to other persons or circumstances.

**SECTION 11. Conflicting Initiatives.**

(a) In the event that this measure and another measure or measures amending the California personal income tax rate for any taxpayer or group of taxpayers, or amending the rate of tax imposed on retailers for the privilege of selling tangible personal property at retail, or amending the rate of excise tax imposed on the storage, use or other consumption in this state of tangible personal property purchased from any retailer for



storage, use or other consumption in this state, shall appear on the same statewide election ballot, the rate-amending provisions of the other measure or measures and all provisions of that measure that are funded by its rate – amending provisions, shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than any such other measure, the rate-amending provisions of the other measure, and all provisions of that measure that are funded by its rate – amending provisions, shall be null and void, and the provisions of this measure shall prevail instead.

(b) Conflicts between other provisions not subject to subdivision (a) of this section shall be resolved pursuant to article II, section 10, subdivision (b) of the California Constitution.

#### **SECTION 12. Amendments.**

This Act may not be amended except by majority vote of the people in a statewide general election.

#### **SECTION 13. Effective Dates and Expiration.**

(a) This measure shall be effective the day after its enactment. Operative dates for the various provisions of this measure shall be those set forth in the Act.

(b) The tax imposed by subdivisions (a) and (b) of Section 17041.1 of the Revenue and Taxation Code, added pursuant to this Act shall cease to be operative and shall expire on December 31, 2024, unless the voters, by majority vote, approve the extension of the Act at a statewide election held on or before the first Tuesday after the first Monday in November, 2024.

