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MEMORANDUM

VIA E-MAIL

To: All K-12 and COE Clients

From: Robert J. Henry, General Counsel 

Date: October 15, 2003

Re: AB 1137 – Charter School Academic and Performance Accountability

Governor Davis signed AB 1137 (copy attached) and it will become law on January 1, 2004. The new law adds several new provisions to the Charter Schools Act, including the following:

1. Prohibits the renewal of charters for schools scoring less than “4” on the 10-point Academic Performance Index ranking system except in specified circumstances.
2. Mandates extensive new oversight and monitoring requirements for charter-granting agencies including county offices of education.
3. Provides that charter-granting agencies may lose their liability protection for the debts or obligations of charter schools governed as or by public benefit non-profit corporations if the charter granting agencies fail to exercise appropriate charter school oversight.

RJH:tw

Enc. AB 1137

BILL NUMBER: AB 1137 ENROLLED
BILL TEXT

PASSED THE ASSEMBLY SEPTEMBER 9, 2003
PASSED THE SENATE SEPTEMBER 8, 2003
AMENDED IN SENATE SEPTEMBER 4, 2003
AMENDED IN SENATE AUGUST 18, 2003
AMENDED IN SENATE JULY 16, 2003
AMENDED IN SENATE JULY 3, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 10, 2003
AMENDED IN ASSEMBLY MARCH 27, 2003

INTRODUCED BY Assembly Member Reyes

FEBRUARY 21, 2003

An act to amend Sections 44579.1, 44579.2, 44579.5, 47604, 47607, 47612.5, 47613, 47634, 60242, and 60421 of, to amend and repeal Sections 14002.3 and 47612 of and, to add Sections 47604.32, and 47604.33 to, the Education Code, relating to charter schools, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1137, Reyes. Charter schools.

(1) The Charter Schools Act of 1992 permits teachers, parents, pupils, and community members to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning.

This bill would specify several oversight duties of each chartering authority with respect to charter schools under their authority. The bill would require each chartering authority to identify a contact person for each charter school, annually visit each charter school, ensure that each charter school complies with specified reporting requirements, adjust the amount that may be charged for related administrative costs, and establish policies and procedures to monitor the fiscal condition of each charter school. To the extent that the bill would impose new oversight duties on an authority that had granted a charter prior to the effective date of the bill, the bill would impose a state-mandated local program. The bill would additionally require each charter school to submit various budget reports to its chartering authority and the county superintendent of schools, unless the county board of education is the chartering authority.

The bill would require a charter school to meet at least one of several academic performance criteria as a prerequisite to receiving a charter renewal.

(2) Existing law specifies that a charter school is to be treated as a school district for purposes of the State School Fund, a continuously appropriated fund. These provisions become inoperative on July 1, 2004, and are repealed on January 1, 2005.

This bill would delete the July 1, 2004, inoperative date and the January 1, 2005, repeal date of those provisions, thereby extending the operation of those provisions indefinitely. The bill would, in addition, make conforming changes to other provisions.

By extending the operation of those provisions indefinitely, the bill would thereby make an appropriation.

(3) Existing law requires the Superintendent of Public Instruction

to annually compute a categorical block grant amount for each charter school and includes specified categorical programs in the computation.

This bill would include in that list of categorical programs other specified programs, including, but not limited to, the Instructional Time and Staff Development Reform Program and the Instructional Materials Funding Realignment Program. The bill would, in addition, authorize the transfer of certain unobligated funds to that categorical block grant during years in which a deficiency exists in the categorical block grant.

(4) Existing law establishes the Instructional Time and Staff Development Reform Program for the purpose of providing grants to school districts, county offices of education, and charter schools, to enhance staff development opportunities for classroom personnel.

This bill would repeal these provisions to the extent they apply to charter schools, and would make conforming changes to related provisions of law. The bill would authorize the allowance to be used for training designed to improve intolerance and hatred prevention.

(5) Existing law establishes the State Instructional Materials Fund in the State Treasury as a means of annually funding the acquisition of instructional materials. Existing law authorizes a charter school to apply for those funds on its own behalf or through its chartering entity.

This bill would delete that latter provision.

(6) Existing law establishes the Instructional Materials Funding Realignment Program to provide funding for instructional materials to a school district, which is defined to include charter schools, on the basis of an equal amount per pupil enrolled in public elementary and high schools, as specified.

This bill would repeal these provisions to the extent they apply to charter schools.

(7) Existing law provides that a charter school may elect to operate as, or be operated by, a nonprofit public benefit corporation, as defined, and declares the intent of the Legislature that the chartering authority that grants that charter is not liable for the debts or obligations of the charter school.

This bill would, instead, require that chartering authority to comply with specified oversight responsibilities to be shielded from that liability.

(8) This bill would incorporate additional changes in Section 60242 of the Education Code proposed by SB 469 that would become operative only if SB 469 and this bill are both chaptered and become effective January 1, 2004, and this bill is chaptered last.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The intent of the Legislature, in enacting the Charter Schools

Act of 1992, was to hold charter schools accountable for meeting measurable pupil outcomes and to provide charter schools with a method to change from rule-based to performance-based accountability systems.

(b) Objective, statewide, and uniform minimum academic standards should be adopted to ensure that the performance-based accountability system for charter schools is linked to meeting measurable pupil outcomes.

(c) The Charter Schools Act of 1992 shall be interpreted to further its purpose as a performance-based accountability system.

SEC. 2. Section 14002.3 of the Education Code, as added by Section 26 of Chapter 1168 of the Statutes of 2002, is amended to read:

14002.3. Notwithstanding any other provision of law, for purposes of Sections 14002, 14004, and 41301, for the 2000-01 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall certify to the Controller amounts that do not exceed the amounts needed to fund the revenue limits of school districts, as determined pursuant to Section 42238, the revenue limits of county superintendents of schools, as determined pursuant to Section 2558, and the revenue limit portion of charter school operational funding, as determined pursuant to Section 47633.

SEC. 3. Section 14002.3 of the Education Code, as added by Section 3 of Chapter 1168 of the Statutes of 2002, is repealed.

SEC. 4. Section 44579.1 of the Education Code is amended to read:

44579.1. (a) There is hereby established the Instructional Time and Staff Development Reform Program. It is the intent of the Legislature that this program enhance staff development opportunities for classroom personnel, but this article does not provide the sole source of funding for staff development activities for school personnel or limit the amount or type of staff development that is provided to school district personnel from other resources.

(b) The department shall submit draft regulations for the purpose of implementing this article to the State Board of Education for its review and approval. The State Board of Education shall adopt regulations for the purpose of implementing this article pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Each fiscal year, the Superintendent of Public Instruction shall provide each eligible school district and county office of education applying for a grant pursuant to this article with a staff development allowance of two hundred seventy dollars (\$270) per day, adjusted annually commencing with the 1999-2000 fiscal year for the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1, for up to three days, for each certificated classroom teacher and one hundred forty dollars (\$140) per day, adjusted annually commencing with the 1999-2000 fiscal year for the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1, for up to one day for each classified classroom instructional aide and certificated teaching assistant who participates in staff development instructional methods, including teaching strategies, classroom management and other training designed to improve pupil performance, conflict resolution, intolerance and hatred prevention, and academic content in the core curriculum areas that are provided by the school district or county office of education.

(d) To be eligible for a grant pursuant to this article, the staff development program provided by the school district or county office of education shall meet all of the following requirements:

(1) Meet local educational priorities as defined by the governing board of the school district or county board of education.

(2) Be consistent with regulations defining staff development activities eligible to receive funding pursuant to this section.

(e) To qualify as a funded participant, each eligible participant

shall be present for the full staff development day, and records of attendance shall be maintained in a manner to be prescribed in regulations. Each staff development day shall be at least as long as the full-time instructional workday for certificated or classified instructional employees of the school district. For purposes of this section, a single staff development day may be conducted over several calendar days.

(f) (1) Except as provided pursuant to paragraph (2), if the staff development day is conducted after completion of an instructional day, it may not be held on a minimum day for which a parent or guardian was notified pursuant to subdivision (c) of Section 48980.

(2) For staff working in multitrack, year-round schools, not more than two staff development days may be scheduled for "off track" teachers at a school with a minimum day scheduled. In this event, teachers at the multitrack, year-round school who are being paid for service on the minimum days are not eligible for that day of funding under this article.

(g) Notwithstanding Section 45203, probationary and permanent employees in the classified service may not receive regular pay on days during which staff development is offered pursuant to this article unless they are required to report for duty on those days.

(h) This section shall be operative in any fiscal year only to the extent that funds are provided for its purposes in the annual Budget Act.

SEC. 5. Section 44579.2 of the Education Code is amended to read:

44579.2. (a) The Superintendent of Public Instruction shall disburse grant funds for this program in the following manner:

(1) Beginning in the 1999-2000 fiscal year, an advance disbursement shall be made following passage of the annual Budget Act. This disbursement shall be provided to each school district and county office of education that participated in the Instructional Time and Staff Development Reform Program in the prior fiscal year, and shall be limited to 25 percent of the amount apportioned to each entity in the prior year.

(2) Each year a disbursement of grant funding to all applicants shall be made following receipt of applications submitted pursuant to Section 44579.1, adjusted as necessary by the amount disbursed pursuant to paragraph (1). If a school district or county office of education that participated in this program in the prior fiscal year fails to submit an application, all funds disbursed to that school district or county office of education pursuant to paragraph (1) shall be deducted from its next monthly principal apportionment payment.

(3) A final adjustment to the amounts paid pursuant to paragraph (2) shall be made following receipt by the Superintendent of Public Instruction of certification by the superintendent of the school district or the county superintendent of schools, as appropriate, of the total number of teacher-days attendance at staff development training that complies with all of the applicable provisions of this article and the regulations adopted by the State Board of Education.

(4) If the amount disbursed pursuant to this article to a school district, county office of education during any fiscal year differs from the amount to which the school district, or county office of education was entitled pursuant to this article, the Superintendent of Public Instruction shall, at the next monthly apportionment following discovery of the error, withhold from, or add to, the apportionment payment made during that month, the amount of the excess or deficiency, as the case may be.

(b) Notwithstanding any other provision of law, excesses withheld or deficiencies added by the Superintendent of Public Instruction pursuant to this section shall be added to, or allowed from, any portion of the State School Fund.

SEC. 6. Section 44579.5 of the Education Code is amended to read:

44579.5. Notwithstanding any other provision of law, a school district or county office of education that participates in the Mathematics and Reading Professional Development Program pursuant to Article 3 (commencing with Section 99230) of Chapter 5 of Part 65 may claim funding, as described in subdivision (c) of Section 44579.1, for the 80 hours of followup instruction, coaching, or additional schoolsite assistance required pursuant to subdivision (b) of Section 99237 if the training meets the requirements described in subdivision (d) of Section 44579.1 and is conducted outside of an instructional day that the school district or county office of education is required to provide in order to qualify for funding pursuant to Part 26 (commencing with Section 46000). Funding claimed pursuant to this section shall be in addition to funding received pursuant to Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.

SEC. 7. Section 47604 of the Education Code is amended to read:

47604. (a) Charter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1) of the Corporations Code).

(b) The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to this section shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

(c) An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.

SEC. 8. Section 47604.32 is added to the Education Code, to read:

47604.32. Each chartering authority, in addition to any other duties imposed by this part, shall do all of the following with respect to each charter school under its authority:

(a) Identify at least one staff member as a contact person for the charter school.

(b) Visit each charter school at least annually.

(c) Ensure that each charter school under its authority complies with all reports required of charter schools by law.

(d) Monitor the fiscal condition of each charter school under its authority.

(e) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:

(1) A renewal of the charter is granted or denied.

(2) The charter is revoked.

(3) The charter school will cease operation for any reason.

(f) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

SEC. 9. Section 47604.33 is added to the Education Code, to read:

47604.33. (a) Each charter school shall annually prepare and submit the following reports to its chartering authority and the county superintendent of schools, or only to the county superintendent of schools if the county board of education is the chartering authority:

(1) On or before July 1, a preliminary budget. For a charter school in its first year of operation, the information submitted pursuant to subdivision (g) of Section 47605 satisfies this requirement.

(2) On or before December 15, an interim financial report. This report shall reflect changes through October 31.

(3) On or before March 15, a second interim financial report. This report shall reflect changes through January 31.

(4) On or before September 15, a final unaudited report for the full prior year.

(b) The chartering authority shall use any financial information it obtains from the charter school, including, but not limited to, the reports required by this section, to assess the fiscal condition of the charter school pursuant to subdivision (d) of Section 47604.32.

(c) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

SEC. 10. Section 47607 of the Education Code is amended to read:

47607. (a) (1) A charter may be granted pursuant to Sections 47605, 47605.5, and 47606 for a period not to exceed five years. A charter granted by a school district governing board, a county board of education or the State Board of Education, may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period of five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter. The authority that granted the charter may inspect or observe any part of the charter school at any time.

(2) Renewals and material revisions of charters shall be governed by the standards and criteria in Section 47605.

(b) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.

(iii) Information submitted by the charter school.

(C) A chartering authority shall submit to the Superintendent of Public Instruction copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent of Public Instruction shall review the materials and make recommendations to the chartering authority based

on that review. The review may be the basis for a recommendation made pursuant to Section 47604.5.

(D) A charter renewal may not be granted to a charter school prior to 30 days after that charter school submits materials pursuant to this paragraph.

(5) Has qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

(c) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(4) Violated any provision of law.

(d) Prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.

SEC. 11. Section 47612 of the Education Code, as amended by Section 1 of Chapter 36 of the Statutes of 2002, is amended to read:

47612. (a) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of this chapter.

(b) The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. The State Board of Education shall, on or before January 1, 2000, adopt regulations defining "satisfactory progress."

(c) A charter school shall be deemed to be a "school district" for purposes of Article 1 (commencing with Section 14000) of Chapter 1 of Part 9, Section 41301, Section 41302.5, Article 10 (commencing with Section 41850) of Chapter 5 of Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

SEC. 12. Section 47612 of the Education Code, as added by Section 2 of Chapter 36 of the Statutes of 2002, is repealed.

SEC. 13. Section 47612.5 of the Education Code is amended to read:

47612.5. (a) Notwithstanding any other provision of law and as a condition of apportionment, a charter school shall do all of the following:

(1) Offer, at a minimum, the same number of minutes of instruction set forth in paragraph (3) of subdivision (a) of Section 46201 for the appropriate grade levels.

(2) Maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection.

(3) Certify that its pupils have participated in the state testing programs specified in Chapter 5 (commencing with Section 60600) of Part 33 in the same manner as other pupils attending public schools as a condition of apportionment of state funding.

(b) Notwithstanding any other provision of law and except to the extent inconsistent with this section and Section 47634.2, a charter school that provides independent study shall comply with Article 5.5

(commencing with Section 51745) of Chapter 5 of Part 28 and implementing regulations adopted thereunder. The State Board of Education shall adopt regulations that apply this article to charter schools. To the extent that these regulations concern the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (1) of Section 47605.

(c) A reduction in apportionment made pursuant to subdivision (a) shall be proportional to the magnitude of the exception that causes the reduction. For purposes of paragraph (1) of subdivision (a), for each charter school that fails to offer pupils the minimum number of minutes of instruction specified in that paragraph, the Superintendent of Public Instruction shall withhold from the charter school's apportionment for average daily attendance of the affected pupils, by grade level, the sum of that apportionment multiplied by the percentage of the minimum number of minutes of instruction at each grade level that the charter school failed to offer.

(d) (1) Notwithstanding any other provision of law and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the State Board of Education. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe. The State Board of Education shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e). Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (1) of Section 47605.

(2) Except as provided in paragraph (2) of subdivision (b) of Section 47634.2, a charter school that receives a determination pursuant to subdivision (b) of Section 47634.2 is not required to reapply annually for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. A charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination pursuant to subdivision (b) of Section 47634.2 shall receive a five-year determination and is not required to annually reapply for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. Notwithstanding any provision of law, the State Board of Education may require a charter school to provide updated information at any time it determines that a review of that information is necessary. The State Board of Education may terminate a determination for funding if updated or additional information requested by the board is not made available to the board by the charter school within a reasonable amount of time or if the information otherwise supports termination. A determination for funding pursuant to Section 47634.2 may not exceed five years.

(3) A charter school that offers nonclassroom-based instruction in excess of the amount authorized by paragraph (1) of subdivision (e) is subject to the determination for funding requirement of Section 47634.2 to receive funding each time its charter is renewed or

materially revised pursuant to Section 47607. A charter school that materially revises its charter to offer nonclassroom-based instruction in excess of the amount authorized by paragraph (1) of subdivision (e) is subject to the determination for funding requirement of Section 47634.2.

(e) (1) Notwithstanding any other provision of law, and as a condition of apportionment, "classroom-based instruction" in a charter school, for the purposes of this part, occurs only when charter school pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid teaching certification in accordance with subdivision (1) of Section 47605. For purposes of calculating average daily attendance for classroom-based instruction apportionments, at least 80 percent of the instructional time offered by the charter school shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 80 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Section 47612.5.

(2) For the purposes of this part, "nonclassroom instruction" or "nonclassroom-based instruction" means instruction that does not meet the requirements specified in paragraph (1). The State Board of Education may adopt regulations pursuant to paragraph (1) of subdivision (d) specifying other conditions or limitations on what constitutes nonclassroom-based instruction, as it deems appropriate and consistent with this part.

(3) For purposes of this part, a schoolsite is a facility that is used principally for classroom instruction.

SEC. 14. Section 47613 of the Education Code is amended to read:

47613. (a) Except as set forth in subdivision (b), a chartering agency may charge for the actual costs of supervisory oversight of a charter school not to exceed 1 percent of the revenue of the charter school.

(b) A chartering agency may charge for the actual costs of supervisory oversight of a charter school not to exceed 3 percent of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the chartering agency.

(c) A local agency that is given the responsibility for supervisory oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the actual costs of supervisory oversight, and administrative costs necessary to secure charter school funding. A charter school that is charged for costs under this subdivision may not be charged pursuant to subdivision (a) or (b).

(d) This section does not prevent the charter school from separately purchasing administrative or other services from the chartering agency or any other source.

(e) For the purposes of this section, a chartering agency means a school district, county department of education, or the State Board of Education, that granted the charter to the charter school.

(f) For the purposes of this section, "revenue of the charter school" means the general purpose entitlement and categorical block grant, as defined in subdivisions (a) and (b) of Section 47632.

SEC. 15. Section 47634 of the Education Code is amended to read:

47634. The Superintendent of Public Instruction shall annually compute a categorical block grant amount for each charter school as follows:

(a) The superintendent shall compute, as of June 30, 1999, the estimated statewide average amount of funding for other state categorical aid per unit of average daily attendance received by school districts in 1998-99, for each of four grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and

8; and grades 9 to 12, inclusive. For purposes of this computation, other state categorical aid is limited to the following programs:

(1) The Agricultural Vocational Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) Apprenticeship education established pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6.

(3) The Beginning Teacher Support and Assessment System as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 25.

(4) College preparation programs as set forth in Chapter 8 (commencing with Section 60830) of Part 33, the Academic Improvement and Achievement Act as set forth in Chapter 12 (commencing with Section 11020) of Part 7, and the advanced placement program as set forth in Chapter 8.3 (commencing with Section 52240) of Part 28.

(5) Community day schools as set forth in Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(6) The Instructional Time and Staff Development Reform Program, as set forth in Article 7.5 (commencing with Section 44579) of Chapter 3 of Part 25.

(7) The School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act, as set forth in Article 7 (commencing with Section 54720) of Chapter 9 of Part 29.

(8) The Early Intervention for School Success Program, as set forth in Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

(9) Education Technology pursuant to Article 15 (commencing with Section 51870.5) of Chapter 5 of Part 28.

(10) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.

(11) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(12) The Healthy Start Support Services for Children Act, as set forth in Chapter 5 (commencing with Section 8800) of Part 6.

(13) High-Risk First-Time Offenders program pursuant to Chapter 2 (commencing with Section 47760) of Part 26.95.

(14) The General Fund contribution to the State Instructional Material Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(15) Intersegmental programs for kindergarten and grades 1 to 12, inclusive, funded by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.

(16) Proposition 98 educational programs pursuant to Item 6110-231-0001 of Section 2.00 of the Budget Act of 1998.

(17) The California Mentor Teacher Program, as set forth in Section 44253.6.

(18) The Miller-Unruh Basic Reading Act of 1965, as set forth in Chapter 2 (commencing with Section 54100) of Part 29.

(19) The Morgan-Hart Class Size Reduction Act of 1989, as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.

(20) Opportunity schools pursuant to Article 2 (commencing with Section 48630) of Chapter 4 of Part 27.

(21) Partnership academies pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29.

(22) Mathematics staff development pursuant to Chapter 3.25 (commencing with Section 44695) and Chapter 3.33 (commencing with Section 44720) of Part 25.

(23) Improvement of elementary and secondary education pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(24) The School Community Policing Partnership Act of 1998, as set forth in Article 6 (commencing with Section 32296) of Chapter 2.5 of Part 19.

(25) The School/Law Enforcement partnership funded by Item

6110-226-0001 of Section 2.00 of the Budget Act of 1998.

(26) Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.

(27) School personnel staff development and resource centers pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25.

(28) Supplemental grant funding, not otherwise included in the programs described above, provided by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.

(29) Academic progress and counseling review pursuant to Section 48431.6.

(30) The Schiff-Bustamante Standards-Based Instructional Materials Program as set forth in Chapter 3.5 (commencing with Section 60450) of Part 33.

(31) The Elementary School Intensive Reading Program, as set forth in Chapter 16 (commencing with Section 53025) of Part 28.

(32) The California Public School Library Protection Act, as set forth in Article 6 (commencing with Section 18175) of Chapter 2 of Part 11.

(33) The California Peer Assistance and Review Program for Teachers, as set forth in Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25.

(34) The State Instructional Materials Fund, as set forth in Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(35) The Instructional Materials Funding Realignment Program, as set forth in Chapter 3.25 (commencing with Section 60420) of Part 33.

(36) Mathematics and Reading Professional Development Program, as set forth in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.

Notwithstanding any other provision of law, charter schools that have received a block grant pursuant to this section are not eligible to receive separate funding for programs enumerated in this subdivision or any other state categorical aid programs established on or after July 1, 1999, that are included in the calculation made pursuant to this subdivision and for which charter schools are not required to apply separately.

(b) For purposes of the computation prescribed by subdivision (a), other state categorical aid may not include any of the following:

(1) Programs for which a charter school is required to apply separately.

(2) Programs that support, or are provided in lieu of, capital expenses.

(3) Funding for court-ordered or voluntary desegregation programs.

(4) Special education programs.

(5) Economic Impact Aid.

(6) Lottery funds.

(c) The superintendent shall annually adjust each of the amounts computed pursuant to subdivision (a) to reflect programs that existed on or after July 1, 1999, or their successors, that are subsequently included in or deleted from the categorical block grant. The Director of Finance shall annually recalculate the cumulative percentage change required pursuant to subdivision (c) of Section 47634.5 by adjusting the base year and the budget year figures to reflect those program shifts.

(d) The superintendent shall annually adjust each of the resulting four amounts computed pursuant to subdivision (a) by the cumulative percentage change from the 1998-99 fiscal year, as annually calculated by the Director of Finance pursuant to Section 47634.5, in the total amount of state funding per unit of average daily attendance received by K-12 local educational agencies for purposes that apply toward meeting the requirements of Section 8 of Article XVI of the California Constitution, exclusive of funding for adult education, child development programs, special education, Economic

Impact Aid, revenue limits for school districts and county offices of education, and programs for which a charter school is required to apply separately. Programs for which charter schools are required to apply separately are programs that expressly authorize or require a charter school to apply for funding.

(e) The superintendent shall multiply each of the four amounts computed in subdivision (d) by the charter school's average daily attendance in the corresponding grade level ranges.

(f) The superintendent shall compute the statewide average amount of funding per identified educationally disadvantaged pupil received by school districts in the current year pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29. This amount shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount may, if greater than zero, not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54031. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English language learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

(g) The superintendent shall add the amounts computed in subdivisions (e) and (f). The resulting amount shall be the charter school's categorical block grant that the superintendent shall apportion to each charter school from funds appropriated for this purpose in the annual Budget Act or another statute.

(h) Notwithstanding any other provision of law, a charter school is not eligible to apply for funding under any of the programs the funding of which is included in the computation of the categorical block grant. The Superintendent of Public Instruction shall annually provide each charter school with a list of these programs and shall ensure that a charter school receives timely notification of the opportunity to apply for programs administered by the State Department of Education that are excluded from the categorical block grant.

(i) It is the intent of the Legislature to fully fund the categorical block grant and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance in charter schools. In any fiscal year in which the department identifies a deficiency in the Charter School Categorical Block Grant, the department shall identify programs that are funded toward meeting the requirements of Section 8 of Article XVI of the California Constitution that will have unobligated funds for the year and the associated balances available. At the second principal apportionment, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency in the Charter School Categorical Block Grant. The Director of Finance shall verify the amount of the deficiency in the Charter School Categorical Block Grant and direct the Controller to transfer from those programs to the Charter School Categorical Block Grant an amount equal to the lesser of the amount available or the amount needed to fully fund the Charter School Categorical Block Grant. The Department of Finance shall request the transfer on or before July 1 and notify the Joint Legislative Budget Committee within 45 days of the transfer.

(j) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

SEC. 16. Section 60242 of the Education Code is amended to read:

60242. (a) The state board shall encumber the fund for the purpose of establishing an allowance for each school district, which may reflect increases or decreases in enrollment, that the district may use for the following purposes:

(1) To purchase instructional materials adopted by the state board pursuant to Section 60200 for kindergarten and grades 1 to 8,

inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive.

(2) To purchase, at the district's discretion, instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials, from any source.

(3) To purchase tests.

(4) To bind basic textbooks that are otherwise usable and are on the most recent list of basic instructional materials adopted by the state board and made available pursuant to Section 60200.

(5) To fund in-service training related to instructional materials.

(6) To purchase classroom library materials for kindergarten and grades 1 to 4, inclusive.

(b) The state board shall specify the percentage of a district's allowance that is authorized to be used for each of the purposes identified in subdivision (a).

(c) Allowances established for school districts pursuant to this section shall be apportioned in September of each fiscal year.

(d) (1) A school district that purchases classroom library materials, shall, as a condition of receiving funding pursuant to this article, develop a districtwide classroom library plan for kindergarten and grades 1 to 4, inclusive, and shall receive certification of the plan from the governing board of the school district. A school district shall include in the plan a means of preventing loss, damage, or destruction of the materials.

(2) In developing the plan required by paragraph (1), a school district is encouraged to consult with school library media teachers and primary grade teachers and to consider selections included in the list of recommended books established pursuant to Section 19336. If a school library media teacher is not employed by the school district, the district is encouraged to consult with a school library media teacher employed by the local county office of education in developing the plan.

(3) To the extent that a school district or county office of education already has a plan meeting the criteria specified in paragraphs (1) and (2), no new plan is required to establish eligibility.

SEC. 16.5. Section 60242 of the Education Code is amended to read:

60242. (a) The state board shall encumber the fund for the purpose of establishing an allowance for each school district, which may reflect increases or decreases in enrollment, that the district may use for the following purposes:

(1) To purchase instructional materials adopted by the state board pursuant to Section 60200 for kindergarten and grades 1 to 8, inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive. A school district may purchase with funds received pursuant to Chapter 3.25 (commencing with Section 60420) instructional materials for the visual and performing arts, foreign language, health, or any other curricular area if those materials are adopted by the state board pursuant to Section 60200 for kindergarten and grades 1 to 8, inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive, and if the school district certifies that it has provided each pupil with a standards-aligned textbook or basic instructional materials in reading/language arts, mathematics, history/social science, and science.

(2) To purchase, at the district's discretion, instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials, from any source.

(3) To purchase tests.

(4) To bind basic textbooks that are otherwise usable and are on the most recent list of basic instructional materials adopted by the state board and made available pursuant to Section 60200.

(5) To fund in-service training related to instructional materials.

(6) To purchase classroom library materials for kindergarten and grades 1 to 4, inclusive.

(b) The state board shall specify the percentage of a district's allowance that is authorized to be used for each of the purposes identified in subdivision (a).

(c) Allowances established for school districts pursuant to this section shall be apportioned in September of each fiscal year.

(d) (1) A school district that purchases classroom library materials, shall, as a condition of receiving funding pursuant to this article, develop a districtwide classroom library plan for kindergarten and grades 1 to 4, inclusive, and shall receive certification of the plan from the governing board of the school district. A school district shall include in the plan a means of preventing loss, damage, or destruction of the materials.

(2) In developing the plan required by paragraph (1), a school district is encouraged to consult with school library media teachers and primary grade teachers and to consider selections included in the list of recommended books established pursuant to Section 19336. If a school library media teacher is not employed by the school district, the district is encouraged to consult with a school library media teacher employed by the local county office of education in developing the plan.

(3) To the extent that a school district or county office of education already has a plan meeting the criteria specified in paragraphs (1) and (2), no new plan is required to establish eligibility.

SEC. 17. Section 60421 of the Education Code is amended to read:

60421. (a) The department shall apportion funds appropriated for purposes of this chapter to school districts on the basis of an equal amount per pupil enrolled in kindergarten and grades 1 to 12, inclusive, in the prior year, excluding summer school, adult, and regional occupational center and regional occupational programs enrollment. Enrollment shall be certified by the Superintendent of Public Instruction and based on data as reported by the California Basic Education Data System count. A school district in its first year of operation or of expanding grade levels at a schoolsite shall be eligible to receive funding pursuant to this chapter based on enrollment estimates provided to the department by the school district. As a condition of receipt of funding, a school district or charter school in its first year of operation or of expanding grade levels at a schoolsite shall provide enrollment estimates, as approved by the school district governing board and the county office of education in which the school district is located. These estimates and associated funding shall be adjusted for actual enrollment as reported by the subsequent California Basic Education Data System.

(b) For the purposes of this chapter, the term "school district" means a school district or county office of education, and the term "local governing board" means the governing board of a school district or county board of education.

(c) Allowances established pursuant to this chapter shall be apportioned to school districts in September of each fiscal year.

(d) Notwithstanding any other provision of law, pursuant to subdivision (g) of Section 60200, the State Board of Education may authorize a school district to use any state basic instructional materials allowance to purchase standards-aligned materials as specified within this part.

SEC. 18. Section 16.5 of this bill incorporates amendments to Section 60242 of the Education Code proposed by both this bill and SB 469. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 60242 of the Education Code, and (3) this bill is

enacted after in which case Section 16 of this bill shall not become operative.

SEC. 19. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.