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AMENDED IN SENATE JUNE 20, 2007  
AMENDED IN ASSEMBLY JUNE 1, 2007  
AMENDED IN ASSEMBLY MAY 10, 2007  
AMENDED IN ASSEMBLY APRIL 30, 2007  
AMENDED IN ASSEMBLY APRIL 10, 2007  
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 347**

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**Introduced by Assembly Member Nava**

February 14, 2007

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An act to amend Sections 1240, 35186, 37254, 52378, and 52380 of the Education Code, relating to pupil instruction, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 347, as amended, Nava. Pupils: high school exit examination: intensive instruction and services.

(1) Existing law requires each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school.

Existing law provides specified funding for eligible pupils, as defined, who are required to pass the high school exit examination, to be used for intensive instruction and services for those pupils, and provides for the allocation of those funds, based on a per pupil rate calculation, to schools. As a condition of receiving funding, a school district is required

to accomplish certain matters, including, among other things, ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need *and submit an annual report to the Superintendent of Public Instruction relating to the notification and provision of intensive instruction and services to pupils.*

This bill, among other things, would revise the definition of “eligible pupil” to include pupils who have not passed one or both parts of the high school exit examination within 2 consecutive academic years of completion of grade 12, revise the calculation for determining the per pupil rate for purposes of funding, authorize the receipt of intensive instruction and services on Saturdays, evenings, or at a time and location deemed appropriate by the school district for pupils who have not passed one or both parts of the exit examination within 2 consecutive academic years of completion of grade 12, require a school district to accomplish additional matters relating to pupils who have not passed one or both parts of the exit examination by the end of grade 12, and require the ~~State Department of Education to use a certain existing monitoring process to monitor compliance with the requirement to permit pupils who have not passed one or both parts of the exit examination by the end of grade 12 to be provided with intensive instruction and services, and to provide written notification to a school district that fails to comply with certain provisions~~ *annual report to also be submitted to the appropriate county superintendent of schools.*

(2) Existing law requires a school district to use its uniform complaint process to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. A notice regarding the appropriate subjects of a complaint is required to be posted in each classroom in each school in the school district and a complaint regarding those deficiencies is required to be filed with the principal of the school or his or her designee.

This bill also would require a school district to use its uniform complaint process to help identify and resolve any deficiencies related to intensive instruction and services provided to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12. The bill would also require the notice, for certain classrooms, to include certain information about the entitlement to receive the intensive instruction and services, and would require a complaint regarding any deficiency related to intensive instruction and

services to be submitted to the district official designated by the district superintendent. By imposing additional duties on school districts, this bill would impose a state-mandated local program.

(3) Existing law establishes the Middle and High School Supplemental Counseling Program and requires the governing board of a school district that maintains any of grades 7 to 12, inclusive, as a condition of receiving funds appropriated for purposes of that program, to adopt a counseling program at a public meeting that includes, among other things, a provision for a counselor to meet with each pupil, as specified, to explain the academic and department records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, and the availability of career technical education. In addition to these counseling services, a school district is required to identify certain pupils, such as those at risk of not graduating with the rest of their class, and to require its schools to provide certain assistance in developing a list of coursework and experience. As a further condition of receipt of funds, a school district is required to submit an annual report *in a manner determined by the Superintendent* that describes certain matters, including the number and percentage of pupils who participated in conferences and who fail to pass one or both sections of the high school exit examination.

This bill also would require the counselor to explain the availability of intensive instruction and services options for up to 2 consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, for those pupils who have not passed one or both parts of the exit examination by the end of grade 12. The bill also would require a school district, for the identified pupils, to inform a pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services. The bill would require the report to also *be submitted to the appropriate county superintendent of schools and* contain an assurance that the school district has complied with the provision that requires a school counselor to apprise a pupil of certain information during an individual conference.

(4) *Existing law requires a county superintendent of schools to undertake specified duties regarding the oversight of the school districts within his or her jurisdiction.*

*This bill would require a county superintendent of schools to perform additional duties related to conducting school visits and verifying that*

*pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to 2 consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the exit examination, whichever comes first, and verifying that those pupils who elected to receive the instruction and services are being served. By imposing additional duties on local educational agencies or officials, the bill would impose a state-mandated local program.*

(4)

(5) This bill would make other technical, nonsubstantive changes to existing law.

(5)

(6) 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.

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.

(6)

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

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1     SECTION 1. Section 1240 of the Education Code is amended  
2     to read:  
3     1240. The county superintendent of schools shall do all of the  
4     following:  
5     (a) Superintend the schools of his or her county.  
6     (b) Maintain responsibility for the fiscal oversight of each school  
7     district in his or her county pursuant to the authority granted by  
8     this code.  
9     (c) (1) Visit and examine each school in his or her county at  
10    reasonable intervals to observe its operation and to learn of its  
11    problems. He or she ~~may~~ annually *may* present a report of the state  
12    of the schools in his or her county, and of his or her office,  
13    including, but not limited to, his or her observations while visiting

1 the schools, to the board of education and the board of supervisors  
2 of his or her county.

3 (2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the  
4 extent that funds are appropriated for purposes of this paragraph,  
5 the county superintendent, or his or her designee, ~~shall~~ annually  
6 *shall* submit a report, at a regularly scheduled November board  
7 meeting, to the governing board of each school district under his  
8 or her jurisdiction, the county board of education of his or her  
9 county, and the board of supervisors of his or her county describing  
10 the state of the schools in the county or of his or her office that are  
11 ranked in deciles 1 to 3, inclusive, of the 2003 base Academic  
12 Performance Index (API), as defined in subdivision (b) of Section  
13 17592.70, and shall include, among other things, his or her  
14 observations while visiting the schools and his or her  
15 determinations for each school regarding the status of all of the  
16 circumstances listed in subparagraph ~~(F)~~ (J) and teacher  
17 misassignments and teacher vacancies. As a condition for receipt  
18 of funds, the county superintendent, or his or her designee, shall  
19 use a standardized template to report the circumstances listed in  
20 subparagraph ~~(F)~~ (J) and teacher misassignments and teacher  
21 vacancies, unless the current annual report being used by the county  
22 superintendent, or his or her designee, already includes those details  
23 for each school.

24 (B) Commencing with the 2007–08 fiscal year, to the extent  
25 that funds are appropriated for purposes of this paragraph, the  
26 county superintendent, or his or her designee, ~~shall~~ annually *shall*  
27 submit a report, at a regularly scheduled November board meeting,  
28 to the governing board of each school district under his or her  
29 jurisdiction, the county board of education of his or her county,  
30 and the board of supervisors of his or her county describing the  
31 state of the schools in the county or of his or her office that are  
32 ranked in deciles 1 to 3, inclusive, of the 2006 base API, pursuant  
33 to Section 52056. As a condition for the receipt of funds, the annual  
34 report shall include the determinations for each school made by  
35 the county superintendent, or his or her designee, regarding the  
36 status of all of the circumstances listed in subparagraph ~~(F)~~ (J) and  
37 teacher misassignments and teacher vacancies, and the county  
38 superintendent, or his or her designee, shall use a standardized  
39 template to report the circumstances listed in subparagraph ~~(F)~~ (J)  
40 and teacher misassignments and teacher vacancies, unless the

1 current annual report being used by the county superintendent, or  
 2 his or her designee, already includes those details with the same  
 3 level of specificity that is otherwise required by this subdivision.  
 4 For purposes of this section, schools ranked in deciles 1 to 3,  
 5 inclusive, on the 2006 base API shall include ~~any~~ schools  
 6 determined by the department to meet either of the following:

7 (i) The school meets all of the following criteria:  
 8 (I) Does not have a valid base API score for 2006.  
 9 (II) Is operating in fiscal year 2007–08 and was operating in  
 10 fiscal year 2006–07 during the Standardized Testing and Reporting  
 11 (STAR) Program testing period.

12 (III) Has a valid base API score for 2005 that was ranked in  
 13 deciles 1 to 3, inclusive, in that year.

14 (ii) The school has an estimated base API score for 2006 that  
 15 would be in deciles 1 to 3, inclusive.

16 (C) The department shall estimate an API score for any school  
 17 meeting the criteria of subclauses (I) and (II) of clause (i) of  
 18 subparagraph (B) ~~of paragraph (2)~~ and not meeting the criteria of  
 19 subclause (III) of clause (i) of subparagraph (B) ~~of paragraph (2)~~,  
 20 using available ~~testing~~ test scores and ~~any~~ weighting or corrective  
 21 factors it deems appropriate. The department shall post the API  
 22 scores on its Internet Web site on or before May 1.

23 (D) For purposes of this section, references to schools ranked  
 24 in deciles 1 to 3, inclusive, on the 2006 base API shall exclude  
 25 ~~any~~ schools operated by county offices of education pursuant to  
 26 Section 56140, as determined by the department.

27 (E) *In addition to the requirements above, the county*  
 28 *superintendent, or his or her designee, annually shall verify both*  
 29 *of the following:*

30 (i) *That pupils who have not passed the high school exit*  
 31 *examination by the end of grade 12 are informed that they are*  
 32 *entitled to receive intensive instruction and services for up to two*  
 33 *consecutive academic years after completion of grade 12 or until*  
 34 *the pupil has passed both parts of the high school exit examination,*  
 35 *whichever comes first, pursuant to paragraphs (4) and (5) of*  
 36 *subdivision (d) of Section 37254.*

37 (ii) *That pupils who have elected to receive intensive instruction*  
 38 *and services, pursuant to paragraphs (4) and (5) of subdivision*  
 39 *(d) of Section 37254, are being served.*

40 (F)

1 (F) (i) Commencing with the 2010–11 fiscal year and every  
2 third year thereafter, the Superintendent shall identify a list of  
3 schools ranked in deciles 1 to 3, inclusive, of the API for which  
4 the county superintendent, or his or her designee, ~~shall~~ annually  
5 *shall* submit a report, at a regularly scheduled November board  
6 meeting, to the governing board of each school district under his  
7 or her jurisdiction, the county board of education of his or her  
8 county, and the board of supervisors of his or her county that  
9 describes the state of the schools in the county or of his or her  
10 office that are ranked in deciles 1 to 3, inclusive, of the base API  
11 as defined in clause (ii).

12 (ii) For the 2010–11 fiscal year, the list of schools ranked in  
13 deciles 1 to 3, inclusive, of the base API shall be updated using  
14 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
15 subparagraph (C), and subparagraph (D), as applied to the 2009  
16 base API and thereafter shall be updated every third year using  
17 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
18 subparagraph (C), and subparagraph (D), as applied to the base  
19 API of the year preceding the third year consistent with clause (i).

20 (iii) As a condition for the receipt of funds, the annual report  
21 shall include the determinations for each school made by the county  
22 superintendent, or his or her designee, regarding the status of all  
23 of the circumstances listed in subparagraph ~~(F)~~ (J) and teacher  
24 misassignments and teacher vacancies, and the county  
25 superintendent, or his or her designee, shall use a standardized  
26 template to report the circumstances listed in subparagraph ~~(F)~~ (J)  
27 and teacher misassignments and teacher vacancies, unless the  
28 current annual report being used by the county superintendent, or  
29 his or her designee, already includes those details with the same  
30 level of specificity that is otherwise required by this subdivision.

31 ~~(F)~~

32 (G) The county superintendent of the Counties of Alpine,  
33 Amador, Del Norte, Mariposa, Plumas, *and* Sierra, and the City  
34 and County of San Francisco shall contract with another county  
35 office of education or an independent auditor to conduct the  
36 required visits and make all reports required by this paragraph.

37 ~~(G)~~

38 (H) On a quarterly basis, the county superintendent, or his or  
39 her designee, shall report the results of the visits and reviews  
40 conducted that quarter to the governing board of the school district

1 at a regularly scheduled meeting held in accordance with public  
2 notification requirements. The results of the visits and reviews  
3 shall include the determinations of the county superintendent, or  
4 his or her designee, for each school regarding the status of all of  
5 the circumstances listed in subparagraph ~~(H)~~ (J) and teacher  
6 misassignments and teacher vacancies. If the county  
7 superintendent, or his or her designee, conducts no visits or reviews  
8 in a quarter, the quarterly report shall report that fact.

9 ~~(H)~~

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

- 12 (i) Minimize disruption to the operation of the school.
- 13 (ii) Be performed by individuals who meet the requirements of  
14 Section 45125.1.
- 15 (iii) Consist of not less than 25 percent unannounced visits in  
16 each county. During unannounced visits in each county, the county  
17 superintendent shall not demand access to documents or specific  
18 school personnel. Unannounced visits shall only be used to observe  
19 the condition of school repair and maintenance, and the sufficiency  
20 of instructional materials, as defined by Section 60119.

21 ~~(I)~~

22 (J) The priority objective of the visits made pursuant to this  
23 paragraph shall be to determine the status of all of the following  
24 circumstances:

- 25 (i) Sufficient textbooks as defined in Section 60119 and as  
26 specified in subdivision (i).
- 27 (ii) The condition of a facility that poses an emergency or urgent  
28 threat to the health or safety of pupils or staff as defined in district  
29 policy or paragraph (1) of subdivision (c) of Section 17592.72.
- 30 (iii) The accuracy of data reported on the school accountability  
31 report card with respect to the availability of sufficient textbooks  
32 and instructional materials, as defined by Section 60119, and the  
33 safety, cleanliness, and adequacy of school facilities, including  
34 good repair as required by Sections 17014, 17032.5, 17070.75,  
35 and 17089.
- 36 (iv) *The extent to which pupils who have not passed the high  
37 school exit examination by the end of grade 12 are informed that  
38 they are entitled to receive intensive instruction and services for  
39 up to two consecutive academic years after completion of grade  
40 12 or until the pupil has passed both parts of the high school exit*

1 examination, whichever comes first, pursuant to paragraphs (4)  
2 and (5) of subdivision (d) of Section 37254.

3 (v) The extent to which pupils who have elected to receive  
4 intensive instruction and services, pursuant to paragraphs (4) and  
5 (5) of subdivision (d) of Section 37254, are being served.

6 ~~(J)~~

7 (K) The county superintendent may make the status  
8 determinations described in subparagraph ~~(J)~~ (J) during a single  
9 visit or multiple visits. In determining whether to make a single  
10 visit or multiple visits for this purpose, the county superintendent  
11 shall take into consideration factors such as cost-effectiveness,  
12 disruption to the schoolsite, deadlines, and the availability of  
13 qualified reviewers.

14 ~~(K)~~

15 (L) If the county superintendent determines that the condition  
16 of a facility poses an emergency or urgent threat to the health or  
17 safety of pupils or staff as defined in district policy or paragraph  
18 (1) of subdivision (c) of Section 17592.72, or is not in good repair,  
19 as specified in subdivision (d) of Section 17002 and required by  
20 Sections 17014, 17032.5, 17070.75, and 17089, the county  
21 superintendent ~~may~~, among other things, *may* do any of the  
22 following:

23 (i) Return to the school to verify repairs.

24 (ii) Prepare a report that specifically identifies and documents  
25 the areas or instances of noncompliance if the district has not  
26 provided evidence of successful repairs within 30 days of the  
27 ~~county superintendent's~~ *county superintendent's* visit of *the county superintendent* or, for  
28 major projects, has not provided evidence that the repairs will be  
29 conducted in a timely manner. The report may be provided to the  
30 governing board of the school district. If the report is provided to  
31 the school district, it shall be presented at a regularly scheduled  
32 meeting held in accordance with public notification requirements.  
33 The county superintendent shall post the report on ~~its~~ *his or her*  
34 Internet Web site. The report shall be removed from the Internet  
35 Web site when the county superintendent verifies the repairs have  
36 been completed.

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

39 (e) Annually, on or before August 15, present a report to the  
40 governing board of the school district and the Superintendent

1 regarding the fiscal solvency of ~~any~~ a school district with a  
 2 disapproved budget, qualified interim certification, or a negative  
 3 interim certification, or that is determined ~~at any time~~ to be in a  
 4 position of fiscal uncertainty pursuant to Section 42127.6.

5 (f) Keep in his or her office the reports of the Superintendent.

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

11 (h) Enforce the course of study.

12 (i) (1) Enforce the use of state textbooks and instructional  
 13 materials and of high school textbooks and instructional materials  
 14 regularly adopted by the proper authority in accordance with  
 15 Section 51050.

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

19 (3) (A) Commencing with the 2005–06 school year, if a school  
 20 is ranked in any of deciles 1 to 3, inclusive, of the ~~2003~~ base API,  
 21 as ~~defined in subdivision (b) of Section 17592.70~~ *specified in*  
 22 *paragraph (2) of subdivision (c)*, and not currently under review  
 23 pursuant to a state or federal intervention program, the county  
 24 superintendent ~~shall~~ specifically *shall* review that school at least  
 25 annually as a priority school. A review conducted for purposes of  
 26 this paragraph shall be completed by the fourth week of the school  
 27 year. For the 2004–05 fiscal year only, the county superintendent  
 28 shall make a diligent effort to conduct a visit to each school  
 29 pursuant to this paragraph within 120 days of receipt of funds for  
 30 this purpose.

31 (B) In order to facilitate the review of instructional materials  
 32 before the fourth week of the school year, the county superintendent  
 33 ~~of schools~~ in a county with 200 or more schools that are ranked  
 34 in any of deciles 1 to 3, inclusive, of the ~~2003~~ base API, as ~~defined~~  
 35 ~~in subdivision (b) of Section 17592.70~~ *specified in paragraph (2)*  
 36 *of subdivision (c)*, may utilize a combination of visits and written  
 37 surveys of teachers for the purpose of determining sufficiency of  
 38 textbooks and instructional materials in accordance with  
 39 subparagraph (A) of paragraph (1) of subdivision (a) of Section  
 40 60119 and as defined in subdivision (c) of Section 60119. If a

1 county superintendent ~~of schools~~ elects to conduct written surveys  
2 of teachers, the county superintendent ~~of schools~~ shall visit the  
3 schools surveyed within the same academic year to verify the  
4 accuracy of the information reported on the surveys. If a county  
5 superintendent surveys teachers at a school in which the county  
6 superintendent has found sufficient textbooks and instructional  
7 materials for the previous two consecutive years and determines  
8 that the school does not have sufficient textbooks or instructional  
9 materials, the county superintendent shall within 10 business days  
10 provide a copy of the insufficiency report to the school district as  
11 set forth in paragraph (4).

12 (C) For purposes of this paragraph, “written surveys” may  
13 include paper and electronic or online surveys.

14 (4) If the county superintendent determines that a school does  
15 not have sufficient textbooks or instructional materials in  
16 accordance with subparagraph (A) of paragraph (1) of subdivision  
17 (a) of Section 60119 and as defined by subdivision (c) of Section  
18 60119, the county superintendent shall do all of the following:

19 (A) Prepare a report that specifically identifies and documents  
20 the areas or instances of noncompliance.

21 (B) Provide within five business days of the review, a copy of  
22 the report to the school district, as provided in subdivision (c), or,  
23 if applicable, provide a copy of the report to the school district  
24 within 10 business days pursuant to subparagraph (B) of paragraph  
25 (3).

26 (C) Provide the school district with the opportunity to remedy  
27 the deficiency. The county superintendent shall ensure remediation  
28 of the deficiency no later than the second month of the school term.

29 (D) If the deficiency is not remedied as required pursuant to  
30 subparagraph (C), the county superintendent shall request the  
31 department to purchase the textbooks or instructional materials  
32 necessary to comply with the sufficiency requirement of this  
33 subdivision. If the department purchases textbooks or instructional  
34 materials for the school district, the department shall issue a public  
35 statement at the first regularly scheduled meeting of the state board  
36 occurring immediately after the department receives the ~~county~~  
37 ~~superintendent’s~~ request *of the county superintendent* and that  
38 meets the applicable public notice requirements, indicating that  
39 the district superintendent and the governing board of the school  
40 district failed to provide pupils with sufficient textbooks or

1 instructional materials as required by this subdivision. Before  
2 purchasing the textbooks or instructional materials, the department  
3 shall consult with the district to determine which textbooks or  
4 instructional materials to purchase. All purchases of textbooks or  
5 instructional materials shall comply with Chapter 3.25  
6 (commencing with Section 60420) of Part 33. The amount of funds  
7 necessary for the purchase of the textbooks and materials is a loan  
8 to the school district receiving the textbooks or instructional  
9 materials. Unless the school district repays the amount owed based  
10 upon an agreed-upon repayment schedule with the Superintendent,  
11 the Superintendent shall notify the Controller and the Controller  
12 shall deduct an amount equal to the total amount used to purchase  
13 the textbooks and materials from the next principal apportionment  
14 of the district or from another apportionment of state funds.

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

16 (k) Deliver to his or her successor, at the close of his or her  
17 official term, all records, books, documents, and papers belonging  
18 to the office, taking a receipt for them, which shall be filed with  
19 the department.

20 (l) (1) Submit two reports during the fiscal year to the county  
21 board of education in accordance with the following:

22 (A) The first report shall cover the financial and budgetary status  
23 of the county office of education for the period ending October  
24 31. The second report shall cover the period ending January 31.  
25 Both reports shall be reviewed by the county board of education  
26 and approved by the county superintendent of schools no later than  
27 45 days after the close of the period being reported.

28 (B) As part of each report, the county superintendent shall certify  
29 in writing whether or not the county office of education is able to  
30 meet its financial obligations for the remainder of the fiscal year  
31 and, based on current forecasts, for two subsequent fiscal years.  
32 The certifications shall be classified as positive, qualified, or  
33 negative, pursuant to standards prescribed by the Superintendent,  
34 for the purposes of determining subsequent state agency actions  
35 pursuant to Section 1240.1. For purposes of this subdivision, a  
36 negative certification shall be assigned to ~~any~~ a county office of  
37 education that, based upon current projections, will not meet its  
38 financial obligations for the remainder of the fiscal year or for the  
39 subsequent fiscal year. A qualified certification shall be assigned  
40 to ~~any~~ a county office of education that may not meet its financial

1 obligations for the current fiscal year or two subsequent fiscal  
2 years. A positive certification shall be assigned to ~~any a~~ county  
3 office of education that will meet its financial obligations for the  
4 current fiscal year and subsequent two fiscal years. In accordance  
5 with those standards, the Superintendent may reclassify ~~any a~~  
6 certification. If a county office of education receives a negative  
7 certification, the Superintendent, or his or her designee, may  
8 exercise the authority set forth in subdivision (c) of Section 1630.  
9 Copies of each certification, and of the report containing that  
10 certification, shall be sent to the Superintendent at the time the  
11 certification is submitted to the county board of education. Copies  
12 of each qualified or negative certification and the report containing  
13 that certification shall be sent to the Controller at the time the  
14 certification is submitted to the county board of education.

15 (2) All reports and certifications required under this subdivision  
16 shall be in a format or on forms prescribed by the Superintendent,  
17 and shall be based on standards and criteria for fiscal stability  
18 adopted by the ~~State Board of Education~~ *state board* pursuant to  
19 Section 33127. The reports and supporting data shall be made  
20 available by the county superintendent ~~of schools~~ to ~~any an~~  
21 interested party upon request.

22 (3) This subdivision does not preclude the submission of  
23 additional budgetary or financial reports by the county  
24 superintendent to the county board of education or to the  
25 Superintendent.

26 (4) The county superintendent ~~of schools~~ is not responsible for  
27 the fiscal oversight of the community colleges in the county,  
28 however, he or she may perform financial services on behalf of  
29 those community colleges.

30 (m) If requested, act as agent for the purchase of supplies for  
31 the city and high school districts of his or her county.

32 (n) For purposes of Section 44421.5, report to the Commission  
33 on Teacher Credentialing the identity of ~~any a~~ certificated person  
34 who knowingly and willingly reports false fiscal expenditure data  
35 relative to the conduct of ~~any an~~ educational program. This  
36 requirement applies only if, in the course of his or her normal  
37 duties, the county superintendent ~~of schools~~ discovers information  
38 that gives him or her reasonable cause to believe that false fiscal  
39 expenditure data relative to the conduct of ~~any an~~ educational  
40 program has been reported.

1 SECTION 1.

2 SEC. 2. Section 35186 of the Education Code is amended to  
3 read:

4 35186. (a) A school district shall use the uniform complaint  
5 process it has adopted as required by Chapter 5.1 (commencing  
6 with Section 4600) of Title 5 of the California Code of Regulations,  
7 with modifications, as necessary, to help identify and resolve any  
8 deficiencies related to instructional materials, emergency or urgent  
9 facilities conditions that pose a threat to the health and safety of  
10 pupils or staff, teacher vacancy or misassignment, and intensive  
11 instruction and services provided pursuant to Section 37254 to  
12 pupils who have not passed one or both parts of the high school  
13 exit examination after the completion of grade 12.

14 (1) A complaint may be filed anonymously. A complainant who  
15 identifies himself or herself is entitled to a response if he or she  
16 indicates that a response is requested. A complaint form shall  
17 include a space to mark to indicate whether a response is requested.  
18 If Section 48985 is otherwise applicable, the response, if requested,  
19 and report shall be written in English and the primary language in  
20 which the complaint was filed. All complaints and responses are  
21 public records.

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

25 (3) Except as provided pursuant to paragraph (4), a complaint  
26 shall be filed with the principal of the school or his or her designee.  
27 A complaint about problems beyond the authority of the school  
28 principal shall be forwarded in a timely manner but not to exceed  
29 10 working days to the appropriate school district official for  
30 resolution.

31 (4) A complaint regarding any deficiencies related to intensive  
32 instruction and services provided pursuant to Section 37254 to  
33 pupils who have not passed one or both parts of the high school  
34 exit examination after the completion of grade 12 shall be  
35 submitted to the district official designated by the district  
36 superintendent. A complaint may be filed at the school district  
37 office, or it may be filed at the schoolsite and shall be immediately  
38 forwarded to the designee of the district superintendent.

39 (b) The principal or the designee of the district superintendent,  
40 as applicable, shall make all reasonable efforts to investigate any

1 problem within his or her authority. The principal or designee of  
2 the district superintendent shall remedy a valid complaint within  
3 a reasonable time period but not to exceed 30 working days from  
4 the date the complaint was received. The principal or designee of  
5 the district superintendent shall report to the complainant the  
6 resolution of the complaint within 45 working days of the initial  
7 filing. If the principal makes this report, the principal shall also  
8 report the same information in the same timeframe to the designee  
9 of the district superintendent.

10 (c) A complainant not satisfied with the resolution of the  
11 principal or the designee of the district superintendent has the right  
12 to describe the complaint to the governing board of the school  
13 district at a regularly scheduled hearing of the governing board.  
14 As to complaints involving a condition of a facility that poses an  
15 emergency or urgent threat, as defined in paragraph (1) of  
16 subdivision (c) of Section 17592.72, a complainant who is not  
17 satisfied with the resolution proffered by the principal or the  
18 designee of the district superintendent has the right to file an appeal  
19 to the Superintendent, who shall provide a written report to the  
20 state board describing the basis for the complaint and, as  
21 appropriate, a proposed remedy for the issue described in the  
22 complaint.

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

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

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

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

39 (B) A pupil does not have access to instructional materials to  
40 use at home or after school.

- 1 (C) Textbooks or instructional materials are in poor or unusable  
2 condition, have missing pages, or are unreadable due to damage.
- 3 (2) A complaint related to teacher vacancy or misassignment  
4 as follows:
- 5 (A) A semester begins and a teacher vacancy exists.
- 6 (B) A teacher who lacks credentials or training to teach English  
7 learners is assigned to teach a class with more than 20-percent  
8 English learner pupils in the class. This subparagraph does not  
9 relieve a school district from complying with state or federal law  
10 regarding teachers of English learners.
- 11 (C) A teacher is assigned to teach a class for which the teacher  
12 lacks subject matter competency.
- 13 (3) A complaint related to the condition of facilities that pose  
14 an emergency or urgent threat to the health or safety of pupils or  
15 staff as defined in paragraph (1) of subdivision (c) of Section  
16 17592.72 and any other emergency conditions the school district  
17 determines appropriate and the requirements established pursuant  
18 to subdivision (a) of Section 35292.5.
- 19 (4) A complaint related to the provision of intensive instruction  
20 and services pursuant to paragraphs (4) and (5) of subdivision (d)  
21 of Section 37254.
- 22 (f) In order to identify appropriate subjects of complaint, a notice  
23 shall be posted in each classroom in each school in the school  
24 district notifying parents, guardians, pupils, and teachers of the  
25 following:
- 26 (1) There should be sufficient textbooks and instructional  
27 materials. For there to be sufficient textbooks and instructional  
28 materials each pupil, including English learners, must have a  
29 textbook or instructional materials, or both, to use in class and to  
30 take home.
- 31 (2) School facilities must be clean, safe, and maintained in good  
32 repair.
- 33 (3) There should be no teacher vacancies or misassignments as  
34 defined in paragraphs (2) and (3) of subdivision (h).
- 35 (4) Pupils who have not passed the high school exit examination  
36 by the end of grade 12 are entitled to receive intensive instruction  
37 and services for up to two consecutive academic years after  
38 completion of grade 12 or until the pupil has passed both parts of  
39 the high school exit examination, whichever comes first, pursuant  
40 to paragraphs (4) and (5) of subdivision (d) of Section 37254. The

1 information in this paragraph, which is to be included in the notice  
2 required pursuant to this subdivision, shall only be included in  
3 notices posted in classrooms in schools with grades 10 to 12,  
4 inclusive.

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

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

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

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

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

20 (3) "Teacher vacancy" means a position to which a single  
21 designated certificated employee has not been assigned at the  
22 beginning of the year for an entire year or, if the position is for a  
23 one-semester course, a position to which a single designated  
24 certificated employee has not been assigned at the beginning of a  
25 semester for an entire semester.

26 ~~SEC. 2.~~

27 *SEC. 3.* Section 37254 of the Education Code is amended to  
28 read:

29 37254. (a) For purposes of this section, "eligible pupil" means  
30 a pupil who is required to pass the California High School Exit  
31 Examination for high school graduation pursuant to Chapter 8  
32 (commencing with Section 60850) of Part 33, and who has failed  
33 one or both parts of that examination, including pupils who have  
34 not passed one or both parts of the examination within two  
35 consecutive academic years of completion of grade 12.

36 (b) (1) From the funds appropriated for purposes of this section  
37 in the annual Budget Act or other statute, the Superintendent shall  
38 determine a per pupil rate of funding by dividing the total amount  
39 of funds appropriated for purposes of this section by the number  
40 of eligible pupils in grade 12 and the number of pupils who have

1 not passed the high school exit examination within two consecutive  
2 academic years of completion of grade 12 reported by school  
3 districts in accordance with paragraph (7) of subdivision (d). The  
4 Superintendent shall then apportion to each school district an  
5 amount equal to the per pupil rate determined pursuant to this  
6 paragraph multiplied by the number of eligible grade 12 pupils  
7 and the number of pupils who have not passed both parts of the  
8 high school exit examination within two consecutive academic  
9 years of completion of grade 12 reported pursuant to paragraph  
10 (7) of subdivision (d).

11 (2) If funds appropriated for purposes of paragraph (1) are not  
12 exhausted after the apportionment pursuant to paragraph (1) is  
13 made, the Superintendent shall determine a per pupil rate of  
14 funding for eligible pupils in grade 11 by dividing the total amount  
15 of funds appropriated for purposes of this section remaining after  
16 the apportionment pursuant to paragraph (1) has been made by  
17 dividing the total number of eligible pupils in grade 11 reported  
18 by school districts in accordance with paragraph (7) of subdivision  
19 (d). The Superintendent shall apportion to each school district an  
20 amount equal to the per pupil rate determined pursuant to this  
21 paragraph multiplied by the number of eligible grade 11 pupils  
22 reported pursuant to paragraph (7) of subdivision (d).

23 (3) The maximum per pupil rate of funding shall not exceed  
24 five hundred dollars (\$500) and shall be increased annually by the  
25 percentage determined in paragraph (2) of subdivision (b) of  
26 Section 42238.1

27 (c) (1) The funds described in subdivision (b) shall be used to  
28 provide intensive instruction and services designed to help eligible  
29 pupils pass the California High School Exit Examination.

30 (2) Intensive instruction and services may be provided during  
31 the regular schoolday provided that they do not supplant the  
32 instruction of the pupil in the core curriculum areas as defined in  
33 paragraph (5) of subdivision (a) of Section 60603, or physical  
34 education instruction. Pupils who have not passed one or both parts  
35 of the high school exit examination within two consecutive  
36 academic years of completion of grade 12 may receive intensive  
37 instruction and services on Saturdays, evenings, or at a time and  
38 location deemed appropriate by the school district in order to meet  
39 the needs of these pupils.

- 1 (3) Intensive instruction and services may include, but are not  
2 limited to, all of the following:
- 3 (A) Individual or small group instruction.
  - 4 (B) The hiring of additional teachers.
  - 5 (C) Purchasing, scoring, and reviewing diagnostic assessments.
  - 6 (D) Counseling.
  - 7 (E) Designing instruction to meet specific needs of eligible  
8 pupils.
  - 9 (F) Appropriate teacher training to meet the needs of eligible  
10 pupils.
  - 11 (G) Instruction in English language arts or mathematics, or both,  
12 that eligible pupils need to pass those parts of the high school exit  
13 examination not yet passed. A school district may employ different  
14 intensive instruction and services strategies more aligned to the  
15 needs and circumstances of pupils who have not passed one or  
16 both parts of the high school exit examination within two  
17 consecutive academic years of completion of grade 12 as compared  
18 to grade 12 pupils with similar needs in a comprehensive high  
19 school of the district.
- 20 (d) As a condition of receiving funds pursuant to subdivision  
21 (c), the school district shall accomplish all of the following:
- 22 (1) Ensure that each eligible pupil receives an appropriate  
23 diagnostic assessment to identify that pupil's areas of need.
  - 24 (2) Ensure that each pupil receives intensive instruction and  
25 services based on the results of the diagnostic assessment, and  
26 prior results on the high school exit examination.
  - 27 (3) Ensure that all pupils who have not passed one or both parts  
28 of the high school exit examination by the end of grade 12 are  
29 notified in writing at the last known address before the end of each  
30 school term of the availability of the services in sufficient time to  
31 register for or avail themselves of those services each term for two  
32 consecutive academic years thereafter and are notified of the right  
33 of a pupil to file a complaint regarding those services as set forth  
34 in Section 35186. In addition to notifying the pupil, or his or her  
35 parent or legal guardian if the pupil is under the age of 18, in  
36 writing, the notice shall be posted in the school office and district  
37 office and on the Internet Web site of the school district, if  
38 applicable. The notice shall comply with the translation  
39 requirements of Section 48985.

1 (4) Ensure that all pupils who have not passed one or both parts  
2 of the high school exit examination by the end of grade 12 have  
3 the opportunity to receive intensive instruction and services as  
4 needed based on the results of the diagnostic assessment and prior  
5 results on the high school exit examination, as specified in  
6 paragraph (2), for up to two consecutive academic years after  
7 completion of grade 12 or until the pupil has passed both parts of  
8 the high school exit examination, whichever comes first. A school  
9 district shall employ strategies for intensive instruction and services  
10 that are most likely to result in these pupils passing the parts of  
11 the high school exit examination that they have not yet passed.

12 (5) Ensure that all English learners who have not passed one or  
13 both parts of the high school exit examination by the end of grade  
14 12 have the opportunity to receive intensive instruction and services  
15 provided under paragraph (3) of subdivision (c) that also shall  
16 include services to improve English proficiency as needed based  
17 on the results of the diagnostic assessment and prior results on the  
18 high school exit examination, as specified in paragraph (2), to pass  
19 those parts of the high school exit examination not yet passed, for  
20 up to two consecutive academic years after completion of grade  
21 12 or until the pupil has passed both parts of the high school exit  
22 examination, whichever comes first. A school district shall employ  
23 strategies for intensive instruction and services that are most likely  
24 to result in these pupils passing the parts of the high school exit  
25 examination that they have not yet passed.

26 (6) Demonstrate that funds will be used to supplement and not  
27 supplant existing services.

28 (7) Provide to the Superintendent, in a manner and by a date  
29 certain determined by the Superintendent, the number of eligible  
30 pupils at each high school in the school district.

31 (8) Submit an annual report to the Superintendent *and the*  
32 *appropriate county superintendent of schools* in a manner  
33 determined by the Superintendent that describes the manner and  
34 frequency in which eligible pupils were notified of the intensive  
35 instruction and services provided, the number of pupils served for  
36 each type of service provided, and the number of pupils in the  
37 school district who successfully pass the high school exit  
38 examination by each type of service provided.

39 ~~(e) The department shall use the Categorical Program~~  
40 ~~Monitoring process set forth in subdivision (b) of Section 64001~~

1 to monitor compliance with the requirement to permit pupils who  
2 have not passed one or both parts of the high school exit  
3 examination by the end of grade 12 to be provided with intensive  
4 instruction and services. If the department determines that a school  
5 district has failed to comply with paragraphs (4) and (5) of  
6 subdivision (d), the department shall notify the district in writing  
7 of its failure to comply.

8 ~~SEC. 3.~~

9 *SEC. 4.* Section 52378 of the Education Code is amended to  
10 read:

11 52378. The Middle and High School Supplemental Counseling  
12 Program is hereby established for the purpose of providing  
13 additional counseling services to pupils in grades 7 to 12, inclusive.  
14 As a condition of receiving funds, the governing board of each  
15 school district maintaining any of grades 7 to 12, inclusive, shall  
16 do all of the following:

17 (a) The program shall be adopted at a public meeting of the  
18 governing board and shall include all of the following:

19 (1) A provision for individualized review of the pupil's academic  
20 and department records.

21 (2) A provision for a counselor to meet with each pupil and if  
22 practicable, the parents or legal guardian of the pupil, to explain  
23 the academic and department records of the pupil, his or her  
24 educational options, the coursework and academic progress needed  
25 for satisfactory completion of middle or high school, passage of  
26 the high school exit examination, the availability of intensive  
27 instruction and services options for up to two consecutive academic  
28 years after the completion of grade 12 or until the pupil has passed  
29 both parts of the high school exit examination, whichever comes  
30 first, for those pupils who have not passed one or both parts of the  
31 high school exit examination by the end of grade 12, and the  
32 availability of career technical education. The educational options  
33 explained at the meeting, if services are available, shall include  
34 college preparatory program and vocational programs, including  
35 regional occupational centers and programs and any other  
36 alternatives available to pupils within the district.

37 (b) In addition to the counseling services described in  
38 subdivision (a), school districts shall identify pupils who are at  
39 risk of not graduating with the rest of their class, are not earning  
40 credits at a rate that will enable them to pass the high school exit

1 examination, or do not have sufficient training to allow them to  
2 fully engage in their chosen career, and shall do all of the  
3 following:

4 (1) Require each school within its jurisdiction that enrolls pupils  
5 in grades 10 and 12 to develop a list of coursework and experience  
6 necessary to assist each pupil in their respective grade that has not  
7 passed one or both parts of the high school exit examination and  
8 to successfully transition to postsecondary education or  
9 employment.

10 (2) Require each school within its jurisdiction that enrolls pupils  
11 in grade 7 to develop a list of coursework and experience necessary  
12 to assist each pupil in grade 7 who is deemed to be at the far below  
13 basic level in English language arts or mathematics pursuant to  
14 California Standards Tests administered to pupils in grade 6 to  
15 successfully transition to high school and meet all graduation  
16 requirements, including passing the high school exit examination.

17 (3) A copy of the list of coursework and experience necessary  
18 shall be provided to the pupil and his or her parent or legal  
19 guardian. The school district shall ensure that the list of coursework  
20 and experience is part of the cumulative records of the pupil.

21 (4) Inform the pupil who has not passed one or both parts of the  
22 high school exit examination of the option of intensive instruction  
23 and services.

24 (c) (1) In addition to the items identified in subdivision (b), the  
25 list of coursework and experience for a pupil enrolled in grade 12  
26 shall include options for continuing his or her education if he or  
27 she fails to meet graduation requirements. These options shall  
28 include, but not be limited to, all of the following:

29 (A) Enrolling in an adult education program.

30 (B) Enrolling in a community college.

31 (C) Continuing enrollment in the pupil's school district.

32 (D) Continuing to receive intensive instruction and services for  
33 up to two consecutive academic years after completion of grade  
34 12 or until the pupil has passed both parts of the high school exit  
35 examination, whichever comes first.

36 (2) A copy of the list of coursework and experience necessary  
37 shall be provided to the pupil and his or her parent or legal  
38 guardian. The school district shall ensure that the list of coursework  
39 and experience is part of the cumulative records of the pupil.

1 (d) As a condition of receipt of funds pursuant to this article, a  
2 school district shall require each school within its jurisdiction to  
3 offer and schedule an individual conference with each pupil,  
4 identified in paragraphs (1) and (2) of subdivision (b), and his or  
5 her parent or legal guardian, and a school counselor. The individual  
6 conference shall be scheduled, to the extent feasible, according to  
7 the following requirements:

8 (1) For a pupil enrolled in grade 7, the conference shall occur  
9 before January of that school year in which the pupil is enrolled  
10 in grade 7.

11 (2) For a pupil enrolled in grade 10, the conference shall occur  
12 between the spring of that school year in which the pupil is enrolled  
13 in grade 10 and the fall of the following school year in which the  
14 pupil would be enrolled in grade 11. For the 2006–07 school year,  
15 the conference shall occur on or before December 31, 2006.

16 (3) For a pupil enrolled in grade 12, the conference shall occur  
17 after November of that school year in which the pupil is enrolled  
18 in grade 12, but before March of the same school year.

19 (e) During the individual conference described in subdivision  
20 (d), the school counselor shall apprise the pupil identified in  
21 paragraphs (1) and (2) of subdivision (b), and his or her parent or  
22 legal guardian of the following:

23 (1) Consequences of not passing the high school exit  
24 examination.

25 (2) Programs, courses, and career technical education options  
26 available for pupils needed for satisfactory completion of middle  
27 or high school.

28 (3) Cumulative records and transcripts of the pupil.

29 (4) Performance on standardized and diagnostic assessments of  
30 the pupil.

31 (5) Remediation strategies, high school courses, and alternative  
32 education options available to the pupil, including, but not limited  
33 to, informing pupils of the option to receive intensive instruction  
34 and services for up to two consecutive academic years after  
35 completion of grade 12 or until the pupil has passed both parts of  
36 the high school exit examination, whichever comes first.

37 (6) Information on postsecondary education and training.

38 (7) The pupil's score on the English language arts or  
39 mathematics portion of the California Standards Test administered  
40 in grade 6, as applicable.

1     ~~SEC. 4.~~

2     ~~SEC. 5.~~ Section 52380 of the Education Code is amended to  
3 read:

4     52380. As a condition of receipt of funds pursuant to this  
5 chapter, a school district shall submit an annual report *to the*  
6 *Superintendent and the appropriate county superintendent of*  
7 *schools* in a manner determined by the Superintendent that  
8 describes the number of pupils served, the number of school  
9 counselors involved in conferences, the number and percentage  
10 of pupils who participated in conferences and who successfully  
11 pass the high school exit examination, and the number and  
12 percentage of pupils who participated in conferences and who fail  
13 to pass one or both sections of the exit examination, and a summary  
14 of the most prevalent results for pupils based on the graduation  
15 plans developed pursuant to this chapter. The report also shall  
16 contain an assurance that the school district has complied with  
17 subdivision (e) of Section 52378.

18     ~~SEC. 5.~~

19     ~~SEC. 6.~~ If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.

24     ~~SEC. 6.~~

25     ~~SEC. 7.~~ This act is an urgency statute necessary for the  
26 immediate preservation of the public peace, health, or safety within  
27 the meaning of Article IV of the Constitution and shall go into  
28 immediate effect. The facts constituting the necessity are:

29     In order to provide timely assistance to the pupils of the classes  
30 of 2006 and 2007 who have not passed one or both sections of the  
31 high school exit examination by the end of grade 12, it is necessary  
32 that this bill take effect immediately.

O