

**Senate Bill No. 172**

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Passed the Senate September 10, 2015

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*Secretary of the Senate*

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Passed the Assembly September 8, 2015

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 60640 of, to add Section 60851.5 to, and to add and repeal Section 60851.6 of, the Education Code, relating to pupil testing.

## LEGISLATIVE COUNSEL'S DIGEST

SB 172, Liu. Pupil testing: high school exit examination: suspension.

Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop a high school exit examination in English language arts and mathematics in accordance with state academic content standards. Existing law requires, commencing with the 2003–04 school year and each school year thereafter, 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.

This bill would suspend the administration of the high school exit examination and would remove the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school for each pupil completing grade 12, for the 2015–16, 2016–17, and 2017–18 school years. The bill would, until July 31, 2018, require the governing board or body of a local educational agency, as defined, and the State Department of Education on behalf of state special schools, to grant a diploma of graduation from high school to any pupil who completed grade 12 in the 2003–04 school year or a subsequent school year and has met all applicable graduation requirements other than the passage of the high school exit examination.

Existing law establishes the California Assessment of Student Performance and Progress as the statewide system of pupil assessments, under which various assessments are required or authorized to be administered in public schools, as specified. Existing law requires the Superintendent, on or before March 1, 2016, to submit to the state board recommendations on expanding the California Assessment of Student Performance and Progress

to include additional assessments, for consideration at a regularly scheduled public meeting, and to also submit those recommendations to the appropriate policy and fiscal committees of the Legislature and to the Director of Finance in accordance with specified requirements.

This bill would add a new requirement, that the Superintendent convene an advisory panel consisting of specified individuals to provide recommendations to the Superintendent on the continuation of the high school exit examination and on alternative pathways to satisfy specified high school graduation requirements, to those recommendations to be submitted by the Superintendent.

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

SECTION 1. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the California Assessment of Student Performance and Progress, to be known as the CAASPP.

(b) Commencing with the 2013–14 school year, the CAASPP shall be composed of all of the following:

(1) (A) A consortium summative assessment in English language arts and mathematics for grades 3 to 8, inclusive, and grade 11 that measures content standards adopted by the state board.

(B) In the 2013–14 school year, the consortium summative assessment in English language arts and mathematics shall be a field test only, to enable the consortium to gauge the validity and reliability of these assessments and to conduct all necessary psychometric procedures and studies, including, but not necessarily limited to, achievement standard setting, and to allow the department to conduct studies regarding full implementation of the assessment system. These field tests and results shall not be used for any other purpose, including the calculation of any accountability measure.

(2) (A) Science grade level assessments in grades 5, 8, and 10 that measure content standards adopted pursuant to Section 60605, until a successor assessment is implemented pursuant to subparagraph (B).

(B) For science assessments, the Superintendent shall make a recommendation to the state board as soon as is feasible after the adoption of science content standards pursuant to Section 60605.85 regarding the assessment of the newly adopted standards. Before making recommendations, the Superintendent shall consult with stakeholders, including, but not necessarily limited to, California science teachers, individuals with expertise in assessing English learners and pupils with disabilities, parents, and measurement experts, regarding the grade level and type of assessment. The recommendations shall include cost estimates and a plan for implementation of at least one assessment in each of the following grade spans:

- (i) Grades 3 to 5, inclusive.
- (ii) Grades 6 to 9, inclusive.
- (iii) Grades 10 to 12, inclusive.

(3) The California Alternate Performance Assessment in grades 2 to 11, inclusive, in English language arts and mathematics and science in grades 5, 8, and 10, which measures content standards adopted pursuant to Section 60605 until a successor assessment is implemented. The successor assessment shall be limited to the grades and subject areas assessed pursuant to paragraph (1) and subparagraph (B) of paragraph (2).

(4) The Early Assessment Program established by Chapter 6 (commencing with Section 99300) of Part 65 of Division 14 of Title 3.

(5) (A) A local educational agency may administer a primary language assessment aligned to the English language arts standards adopted pursuant to Section 60605, as it read on January 1, 2013, to pupils who are identified as limited English proficient and enrolled in any of grades 2 to 11, inclusive, until a subsequent primary language assessment aligned to the common core standards in English language arts adopted pursuant to Section 60605.8 is developed pursuant to subparagraph (E).

(B) If a local educational agency chooses to administer a primary language assessment to pupils identified as limited English proficient and enrolled in any of grades 2 to 11, inclusive, pursuant to subparagraph (A), it shall notify the department in a manner to be determined by the department and the costs shall be paid by the state and included as part of the testing contract, and the department shall provide the local educational agency a per pupil

apportionment for administering the assessment pursuant to subdivision (I).

(C) The Superintendent shall consult with stakeholders, including assessment and English learner experts, to determine the content and purpose of a stand-alone language arts summative assessment in primary languages other than English that aligns with the English language arts content standards. The Superintendent shall consider the appropriate purpose for this assessment, including, but not necessarily limited to, support for the State Seal of Biliteracy and accountability. It is the intent of the Legislature that an assessment developed pursuant to this section be included in the state accountability system.

(D) The Superintendent shall report and make recommendations to the state board at a regularly scheduled public meeting no sooner than one year after the first full administration of the consortium computer-adaptive assessments in English language arts and mathematics summative assessments in grades 3 to 8, inclusive, and grade 11, regarding an implementation timeline and estimated costs of a stand-alone language arts summative assessment in primary languages other than English.

(E) The Superintendent shall develop, and the state board shall adopt, a primary language assessment. The Superintendent shall administer this assessment no later than the 2016–17 school year.

(F) This paragraph shall be operative only to the extent that funding is provided in the annual Budget Act or another statute for the purpose of this section.

(c) No later than March 1, 2016, the Superintendent shall submit to the state board recommendations on expanding the CAASPP to include additional assessments, for consideration at a regularly scheduled public meeting. The Superintendent shall also submit these recommendations to the appropriate policy and fiscal committees of the Legislature and to the Director of Finance in accordance with all of the following:

(1) In consultation with stakeholders, including, but not necessarily limited to, California teachers, individuals with expertise in assessing English learners and pupils with disabilities, parents, and measurement experts, the Superintendent shall make recommendations regarding assessments, including the grade level, content, and type of assessment. These recommendations shall take into consideration the assessments already administered or

planned pursuant to subdivision (b). The Superintendent shall consider the use of consortium-developed assessments, various item types, computer-based testing, and a timeline for implementation.

(2) The recommendations shall consider assessments in subjects, including, but not necessarily limited to, history-social science, technology, visual and performing arts, and other subjects as appropriate, as well as English language arts, mathematics, and science assessments to augment the assessments required under subdivision (b), and the use of various assessment options, including, but not necessarily limited to, computer-based tests, locally scored performance tasks, and portfolios.

(3) The recommendations shall include the use of an assessment calendar that would schedule the assessments identified pursuant to paragraph (2) over several years, the use of matrix sampling, if appropriate, and the use of population sampling.

(4) The recommendations shall include a timeline for test development, and shall include cost estimates for subject areas, as appropriate.

(5) Upon approval by the state board and the appropriation of funding for this purpose, the Superintendent shall develop and administer approved assessments. The state board shall approve test blueprints, achievement level descriptors, testing periods, performance standards, and a reporting plan for each approved assessment.

(6) The Superintendent shall convene an advisory panel, consisting of, but not necessarily limited to, secondary teachers, school administrators, school board members, parents, a student chosen from among the two finalists who were not appointed by the Governor to serve as the student member on the state board pursuant to Section 33000.5, representatives of a dropout recovery charter school operating pursuant to subdivision (g) of Section 47605.1, measurement experts, and individuals with expertise in assessing English learners and pupils with disabilities, to provide recommendations to the Superintendent on the continuation of the high school exit examination, described in Chapter 9 (commencing with Section 60850), and on alternative pathways to satisfy the high school graduation requirements pursuant to Sections 51224.5 and 51225.3.

(d) For the 2013–14 and 2014–15 school years, the department shall make available to local educational agencies Standardized Testing and Reporting Program test forms no longer required by the CAASPP. The cost of implementing this subdivision, including, but not necessarily limited to, shipping, printing, scoring, and reporting per pupil shall be the same for all local educational agencies, and shall not exceed the marginal cost of the assessment, including any cost the department incurs to implement this section. A local educational agency that chooses to administer an assessment pursuant to this subdivision shall do so at its own expense, and shall enter into an agreement for that purpose with a contractor, subject to the approval of the department.

(e) The Superintendent shall make available a paper and pencil version of any computer-based CAASPP assessment for use by pupils who are unable to access the computer-based version of the assessment for a maximum of three years after a new operational test is first administered.

(f) (1) From the funds available for that purpose, each local educational agency shall administer assessments to each of its pupils pursuant to subdivision (b). As allowable by federal statute, recently arrived English learner pupils are exempted from taking the assessment in English language arts. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year. The testing period established by the state board shall take into consideration the need of local educational agencies to provide makeup days for pupils who were absent during testing, as well as the need to schedule testing on electronic computing devices.

(2) For the 2013–14 school year, each local educational agency shall administer the field tests in a manner described by the department in consultation with the president or executive director of the state board. Additional participants in the field test beyond the representative sample may be approved by the department, and the department shall use existing contract savings to fund local educational agency participation in one or more tests per participant. Funds for this purpose shall be used to allow for maximum participation in the field tests across the state. To the extent savings in the current contract are not available to fully fund this participation, the department shall prorate available funds by

test. Local educational agencies shall bear any additional costs to administer these assessments that are in excess of the contracted amount. With the approval of the state board and the Director of Finance, the department shall amend the existing assessment contract to accommodate field testing beyond the representative sample, and to allow for special studies using information collected from the field tests.

(g) From the funds available for that purpose, each local educational agency shall administer assessments as determined by the state board pursuant to paragraph (5) of subdivision (c).

(h) As feasible, the CAASPP field tests shall be conducted in a manner that will minimize the testing burden on individual schools. The CAASPP field tests shall not produce individual pupil scores unless it is determined that these scores are valid and reliable.

(i) The governing board of a school district may administer achievement tests in grades other than those required by this section as it deems appropriate.

(j) Subject to the approval of the state board, the department may make available to local educational agencies a primary language assessment aligned to the English language arts standards adopted pursuant to Section 60605, as it read on January 1, 2013, for assessing pupils who are enrolled in a dual language immersion program that includes the primary language of the assessment and who are either nonlimited English proficient or redesignated fluent English proficient until a subsequent primary language assessment aligned to the common core standards in English language arts adopted pursuant to Section 60605.8 is developed pursuant to paragraph (5) of subdivision (b). The cost for the assessment shall be the same for all local educational agencies and shall not exceed the marginal cost of the assessment, including any cost the department incurs to implement this section. A local educational agency that elects to administer a primary language assessment pursuant to this subdivision shall do so at its own expense and shall enter into an agreement for that purpose with the state testing contractor, subject to the approval of the department.

(k) Pursuant to Section 1412(a)(16) of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration,

where necessary, and the individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(l) (1) The Superintendent shall apportion funds appropriated for these purposes to local educational agencies to enable them to meet the requirements of subdivisions (b) and (c).

(A) For the CAASPP field tests administered in the 2013–14 school year or later school years, the Superintendent shall apportion funds to local educational agencies if funds are specifically provided for this purpose in the annual Budget Act.

(B) The Superintendent shall apportion funds to local educational agencies to enable them to administer assessments used to satisfy the voluntary Early Assessment Program in the 2013–14 school year pursuant to paragraph (4) of subdivision (b).

(2) The state board annually shall establish the amount of funding to be apportioned to local educational agencies for each test administered and annually shall establish the amount that each contractor shall be paid for each test administered under the contracts required pursuant to Section 60643. The amounts to be paid to the contractors shall be determined by considering the cost estimates submitted by each contractor each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to local educational agencies for compliance with the requirements of subdivisions (b) and (c). The state board shall take into account changes to local educational agency test administration activities under the CAASPP, including, but not limited to, the number and type of tests administered and changes in computerized test registration and administration procedures, when establishing the amount of funding to be apportioned to local educational agencies for each test administered.

(3) An adjustment to the amount of funding to be apportioned per test shall not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall

approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(m) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (l), and the payments made to the contractors under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for that fiscal year.

(n) As a condition to receiving an apportionment pursuant to subdivision (l), a local educational agency shall report to the Superintendent all of the following:

(1) The pupils enrolled in the local educational agency in the grades in which assessments were administered pursuant to subdivisions (b) and (c).

(2) The pupils to whom an achievement test was administered pursuant to subdivisions (b) and (c) in the local educational agency.

(3) The pupils in paragraph (1) who were exempted from the test pursuant to this section.

(o) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the CAASPP, including, but not necessarily limited to, the grade 11 consortium summative assessments in English language arts and mathematics, for academic credit, placement, or admissions processes.

(p) Subject to the availability of funds in the annual Budget Act for this purpose, and exclusive of the consortium assessments, the Superintendent, with the approval of the state board, annually shall release to the public test items from the achievement tests pursuant to Section 60642.5 administered in previous years. Where feasible and practicable, the minimum number of test items released per year shall be equal to 25 percent of the total number of test items on the test administered in the previous year.

(q) On or before July 1, 2014, Sections 850 to 868, inclusive, of Title 5 of the California Code of Regulations shall be revised by the state board to conform to the changes made to this section in the first year of the 2013–14 Regular Session. The state board shall adopt initial regulations as emergency regulations to immediately implement the CAASPP assessments, including, but not necessarily limited to, the administration, scoring, and reporting of the tests, as the adoption of emergency regulations is necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code. The emergency regulations shall be followed by the adoption of permanent regulations, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 2. Section 60851.5 is added to the Education Code, to read:

60851.5. Notwithstanding Section 60851, the administration of the high school exit examination, and the requirement that each pupil completing grade 12 successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school, shall be suspended for the 2015–16, 2016–17, and 2017–18 school years.

SEC. 3. Section 60851.6 is added to the Education Code, to read:

60851.6. (a) Notwithstanding Section 60851 or any other law, the governing board or body of a local educational agency, and the department on behalf of state special schools, shall grant a diploma of graduation from high school to any pupil who completed grade 12 in the 2003–04 school year or a subsequent school year and has met all applicable graduation requirements other than the passage of the high school exit examination.

(b) For purposes of this section, “local educational agency” means a school district, county office of education, or charter school.

(c) This section shall remain in effect only until July 31, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before July 31, 2018, deletes or extends that date.









Approved \_\_\_\_\_, 2015

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*Governor*