

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1449 (Muratsuchi) – As Amended April 17, 2017

SUBJECT: Education finance: local control funding formula: special education grant

SUMMARY: Adds a special education grant to the Local Control Funding Formula (LCFF) for school districts, county offices of education (COEs), and charter schools. Specifically, **this bill:**

- 1) Adds a special education grant to COE LCFFs, to be computed by multiplying the total base grant by the percentage of enrolled pupils who are severely disabled and by 35%.
- 2) Adds a special education grant to school district and charter school LCFFs, to be computed by multiplying the total base grants by the percentage of enrolled pupils who are severely disabled and by 20%.
- 3) Requires that the grant be spent on services for students who are severely disabled, defined to include students who are identified as requiring services for autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, and those individuals who would have been eligible for enrollment in a development center
- 4) Requires, under procedures and timeframes established by the Superintendent of Public Instruction (SPI), county superintendents of schools, school districts, and charter schools to annually report their enrollment of individuals who are severely disabled served using the California Longitudinal Pupil Achievement Data System (CALPADS). Requires the SPI to calculate the special education grants using the data submitted through CALPADS.

EXISTING LAW:

- 1) Establishes, commencing with the 1998-99 fiscal year, a “census based” funding system for the allocation of state special education funds, providing most funding appropriated for support of special education programs on the basis of the ADA of special education students enrolled in the prior year, multiplied by a funding rate unique to each SELPA. (EC 56836 et sec).
- 2) Establishes a calculation for determining a statewide target rate of funding used for the purpose of calculating the funding rate of ADA growth in each SELPA. (EC 56836.11)
- 3) Requires, in specified fiscal years, equalization adjustments to be made to increase the funding rates of SELPAs with rates below the 90th percentile.
- 4) Establishes an extraordinary cost pool for the extraordinary costs associated with single placements in nonpublic, nonsectarian schools. (EC 56836.21)
- 5) Establishes a low incidence disability fund for costs associated with the education of students who are visually impaired, hearing impaired, and severely orthopedically impaired, and any combination thereof. (EC 56838.22)

- 6) Defines “severely disabled” to include students with the following disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, and those individuals who would have been eligible for enrollment in a development center (EC 56030.5)
- 7) Establishes the Local Control Funding Formula, which provides base grants by grade span, supplemental grants for excess cost of education students who are English learners, low income, or in foster care, and supplemental grants for school districts in which more than 50% of students fall into one or more of those categories.
- 8) Establishes a local control funding formula (LCFF) for county offices of education (COEs) that is the sum of the following:
 - a) a base grant
 - b) a supplemental grant
 - c) a concentration factor grant
- 9) Provides that the COE supplemental grant shall be equal to 35% of the total base grant multiplied by the percentage of the total enrollment that is either low income, an English learner, or in foster care.
- 10) Provides that the DOE concentration factor grant shall be equal to 35% of the total base grant multiplied by the percentage of the total enrollment that is either low income, an English learner, or in foster care that is in excess of 50% of the total COE enrollment.
- 11) Establishes a LCFF for school districts and charter schools that is the sum of the following:
 - a) a base grant for each of the K-3, 4-6, 7-8, and 9-12 grade spans
 - b) a supplemental grant
 - c) a concentration factor grant
- 12) Provides that the district or charter school supplemental grant shall be equal to 20% of the total base grant multiplied by the percentage of the total enrollment that is either low income, an English learner, or in foster care.
- 13) Provides that the district or charter school concentration factor grant shall be equal to 50% of the total base grant multiplied by the percentage of the total enrollment that is either low income, an English learner, or in foster care that is in excess of 55% of the total COE enrollment.

FISCAL EFFECT: The Office of Legislative Counsel has keyed this bill as a possible state mandated local program.

COMMENTS:

Need for the bill. The author's office states "AB 1449 creates a special education add-on grant under LCFF, which will provide additional resources for students with severe disabilities by establishing a dedicated funding source through a percentage calculation of the base grant, which is based on per pupil average daily attendance (ADA), similar to existing supplemental grants. All special education students require additional resources; however, students with severe disabilities require highly specialized teachers, support staff, equipment, and resources that are very expensive. Therefore, this add-on grant is in line with the philosophy of LCFF, ensuring that students with the greatest needs receive the most resources.

The local control funding formula (LCFF) was implemented in 2013, placing funding decisions in the hands of school districts, so that they could more adequately address needs at the local level. The funding structure of LCFF is divided into base, supplemental, and concentration grants. Supplemental grants are designated for English language learners, foster youth, and students that come from low income families. The rationale for creating supplemental grants for these students was to ensure that those with the greatest needs receive the most resources.

When LCFF was implemented, special education was not included as a supplemental or concentration grant under the formula.

A 2016 report on special education finance, published by the Public Policy Institute of California (PPIC), found that special education is underfunded statewide and districts are struggling to meet the needs of exceptional needs students. While special education is a federally mandated program, the federal government has never met its funding obligation of 40 percent, as set forth in the Individuals with Disabilities Education Act (IDEA). The report also found that, based on district reporting, special education needs are growing throughout the state and that funding has stagnated and is not keeping up with demand. The most costly area of special education is addressing the needs of students with severe disabilities, such as: autism, blindness, deafness, and severe mental or orthopedic disabilities."

Bill does not match the author's intent. According to the author's office, the author's intent for this measure is to create a school district special education grant within LCFF which provides 1) a 35% grant for students identified as having a severe disability, and 2) a 20% grant for students identified as having a severe disability who are also considered to be "unduplicated pupils" under LCFF (English learners, foster youth, or low income). This bill provides a 35% grant to county offices of education and a 20% grant to school districts for students identified as having severe disabilities, and does not make any adjustment for students who are also unduplicated pupils under LCFF.

Recent reports and Governor's Budget Statement. This analysis cites the following recent reports and recommendations frequently:

- Special Education Task Force (Task Force). In 2015, the Statewide Task Force of Special Education, convened the State Board of Education, the Superintendent of Public Instruction, and the Commission on Teacher Credentialing, issued a comprehensive report titled "One System: Reforming Education to Serve ALL Students." This report made a number of recommendations regarding special education finance.
- Legislative Analyst's Office (LAO). The LAO provides much of the background information about special education finance which informs this analysis.

- Public Policy Institute of California (PPIC). In 2016 the Public Policy Institute of California issued a report titled, “Special Education Finance in California,” which analyzed California’s special education finance system in light of the principles that underlie the Local Control Funding Formula (LCFF): local control and accountability, transparency, and equity. In 2009 PPIC also released a report which looked broadly at special education finance ten years after the enactment of AB 602.
- Governor’s Budget Statement. In his 2017-18 Governor’s Budget Summary the Governor committed to engaging in stakeholder meetings throughout the spring budget process to solicit feedback on the current special education finance system. He stated that central to these discussions would be principles which are consistent with the LCFF and apply to all students, including students with disabilities. He stated that school funding mechanisms should be equitable, transparent, easy to understand, focused on the needs of students, and that general purpose funding should cover the full range of costs to educate all students.

Special education in California. Federal law, the federal Individuals with Disabilities Education Act (IDEA), and corresponding state law requires that students with exceptional needs aged birth to 22 be provided a free and appropriate public education in the least restrictive environment. IDEA was established in 1975 and was most recently reauthorized in 2004.

According to the CDE, in 2015-16 there were 734,000 children aged birth to 22 who were identified as having exceptional needs. 662,000 of these children were enrolled in grades K-12, representing roughly 11% of K-12 enrollment.

The most common disabilities among students are specific learning disabilities, speech and language impairments, and other health impairments, which together constituted about 73% of all students with exceptional needs in 2015. While the prevalence of students with Autism Spectrum Disability (ASD) is relatively rare (affecting about 1.5 percent of California students), the number of students diagnosed with ASD has increased notably over the last decade.

Viewed as a whole, there is a significant achievement gap between students with disabilities and their peers. The LAO notes that while performance on standardized tests (including those specifically designed for students with disabilities) has improved over the past several years, a majority of students with disabilities still fail to meet state and federal achievement expectations, and that 60 percent of these students graduate on time with a high school diploma and about two-thirds of are engaged productively after high school (with about half enrolled in an institute of higher education and 15 percent competitively employed within one year after high school).

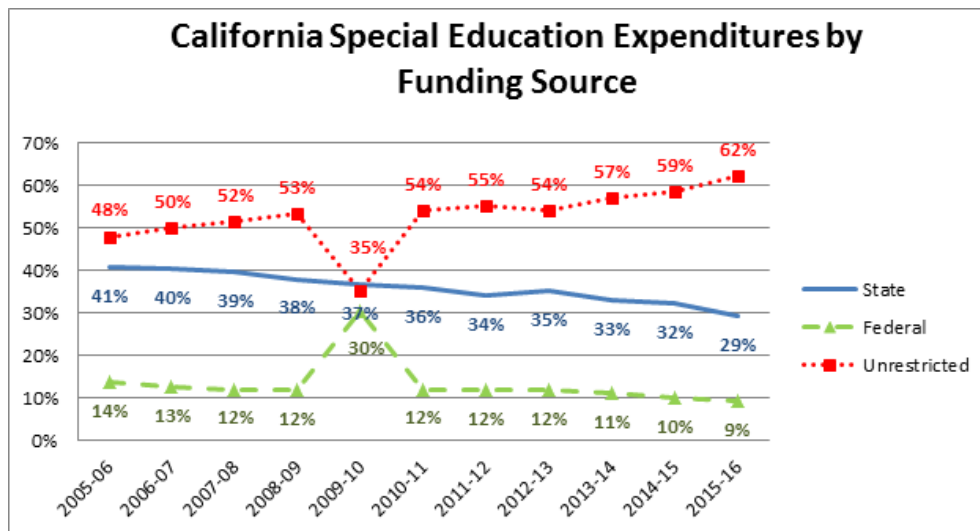
Special education finance in California. Special education in California is funded with a combination of federal, state, and local revenues, totaling \$13.2 billion in 2015-16. In 2015-16 local general purpose funds covered the largest share of these costs (\$8.2 billion, or 62 percent), followed by state special education categorical funds (\$3.8 billion, or 43 percent), combined with federal special education funds (\$1.2 billion, or 9 percent).

State law requires that funding be allocated to Special Education Local Plan Areas (SELPAs), which are either a collection of local educational agencies (LEAs), single school districts, or a collection of charter schools. The SELPAs develop allocation plans and disburse funding to LEAs to serve students.

About 85% of state special education funding is provided as categorical funds known as “AB 602” (Chapter 854, Statutes of 1997). This allocation method provides funding using a census-based method that allocates special education funds to SELPAs based on the total number of students attending school within the area. AB 602 was based on the assumption that students with disabilities are fairly equally distributed in the student population. The intent of AB 602 funding was to remove financial incentives to over-identify students with disabilities that existed under the prior J-50 model. AB 602 also included a “special disabilities adjustment” which accounted for variation in the enrollment of students with more severe disabilities. This adjustment was eliminated in 2011-12, and at the time totaled \$74 million.

Local funds covering an increasing share of special education costs. In recent years local budgets have been covering an increasing share of special education costs.

As shown in the adjacent chart, provided by the LAO, in the last ten years the local share of special education funding has increased from 48% to 62%. This is a result of a number of factors:



- As discussed below, the growth formula for AB 602 is based on overall student growth and not on growth in special education, and overall student growth has been flat while special education enrollment has increased significantly. The result has been a flat level of state funding for a growing student population.
- Federal special education funding has declined since 2013-14 due to sequestration.
- Two compensation-related factors contribute to this increased local share: 1) since special education personnel are paid on the same salary schedules as general education personnel, any negotiated increases in compensation raise special education costs, and 2) in recent years the state has required LEAs to provide an increased share of contributions to the state teachers' retirement system (CalSTRS).
- There has been a marked increase in special education placements which require a higher level of service (such as ASD), and a decline in placements requiring a lower level of service (such as Specific Learning Disability).
- Dedicated funding for higher cost placements, already small in proportion to overall funding, has either declined or remained flat, depending upon the source.
- Districts with a large number of fiscally independent charter schools which enroll less than a proportionate share of students with severe disabilities may find that district special education costs increase as their severely disabled students comprise a larger share of their

special education enrollment. Data presented to the board of one large school district, for example, show that the district serves three times as many severely disabled students than the charter schools within the district.

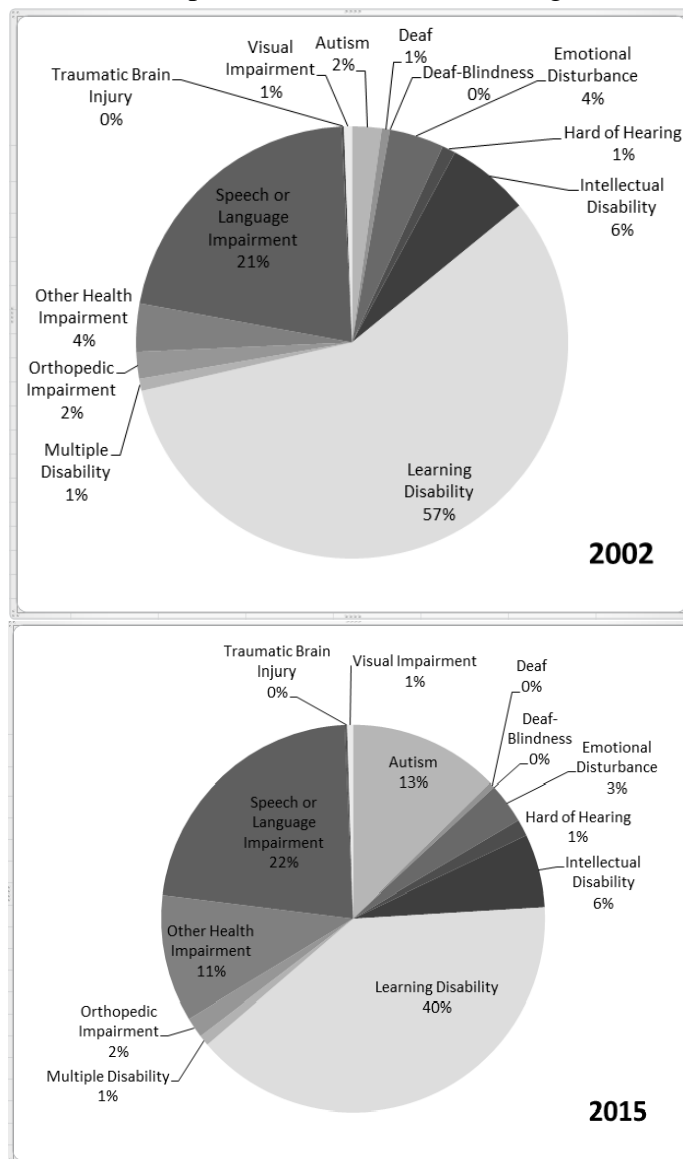
- SELPAs report that 1) funding cuts during the recession reduced the provision of early intervention services which reduce the need for later, more costly services, and 2) some programs are providing a higher level of service for the same placements, as understanding of effective practices evolves.

Trend toward higher percentage of high-cost placements. As shown in the charts on this page, the distribution of disabilities among students identified for special education services has changed over time. Notably, the percentage of students identified with a specific learning disability, a lower cost disability, has declined from 57.3% in 2002 to 39.6% in 2015. Over the same time period, students with autism spectrum disorders, a higher cost disability, increased from 2.2% to 12.6%.

Severe disabilities not equally distributed statewide. To examine the distribution of severe disabilities in California, the PPIC calculated the number of students with autism, cognitive impairment, deafness-blindness, emotionally disturbance, multiple disabilities, and traumatic brain injury. Their analysis showed that students in these categories as a percentage of all K–12 students are not evenly distributed across the state. It found that at the SELPA level, students with severe disabilities range from one to four percent of the total student population, but that even these small variations could produce large SELPA cost differences. PPIC found that at the county level, the range is identical.

Preschool enrollment of children with Autism Spectrum Disability rising rapidly. According to CDE data, in 2005-06 there were 38,563 preschool age students with exceptional needs. In 2015 there were 46,596 such children - an increase of 21% over ten years. The increase in special education enrollment among children of other ages was 7% over the same time period.

Between 2005-06 and 2015-16 the number of preschool age children identified with Autism Spectrum Disability (ASD) increased from 4,845 to 10,688 – an increase of 121%. In 2005-06 children identified with ASD comprised 13% of preschool enrollment; in 2015-16 children with ASD represented nearly 23% of all preschoolers with exceptional needs. Severe disabilities would be expected to constitute a higher proportion of students with disabilities at earlier ages because one large category (Specific Learning Disability) is not typically identified until later



grades, but this percentage is striking because 1) growth in ASD enrollment in this age group has been so rapid and now represents such a large share of preschool enrollment, and 2) in the absence of state funding, school districts spend significant amounts of local funds on the higher cost preschool many of these children need.

Funding for high cost special education placements. In addition to AB 602, the state currently provides two sources of funding for low incidence, and generally higher cost, placements:

- ***Low Incidence funding.*** The budget appropriates approximately \$17 million in funding for low incidence disabilities, providing approximately \$560 per student who is blind, deaf or hard of hearing, or who has severe orthopedic impairments. Funding is provided on the basis of actual pupil counts, not by census, and the appropriation is capped and prorated based on demand. Students with these disabilities comprise 0.5% of California enrollment and 4% of special education enrollment. Services for these students tend to be significantly higher in cost than for other special education students. Services for deaf and hard of hearing students, for example, range from \$20,000 to \$100,000 per pupil, according to the LAO. It is important to note that, unlike the enrollment of other students requiring higher-cost services such as ASD, the enrollment of students with these disabilities has been flat or even declined slightly in recent years (from 30,000 in 2001-02 to 29,000 in 2014-15, according to the LAO). Funding has increased slightly since 2001-02, from \$13.7 million to \$17.4 million in 2016-17.
- ***Extraordinary cost pools.*** Current law establishes two extraordinary cost pools for the extraordinary costs associated with single placements in nonpublic, nonsectarian schools. The total appropriation for these cost pools was \$6 million in the Budget Act of 2016. Funding for the extraordinary cost pools has not been adjusted in a number of years and is widely viewed as inadequate.

Special Disabilities Adjustment eliminated. As part of the AB 602 reform, a funding mechanism known as the “special disabilities adjustment” (SDA) was created to provide additional funding to SELPAs which enrolled a disproportionately large number of “high-cost” special education pupils. This funding was based on an incidence multiplier that was developed pursuant to a study completed in 1998 by the American Institutes for Research (AIR).

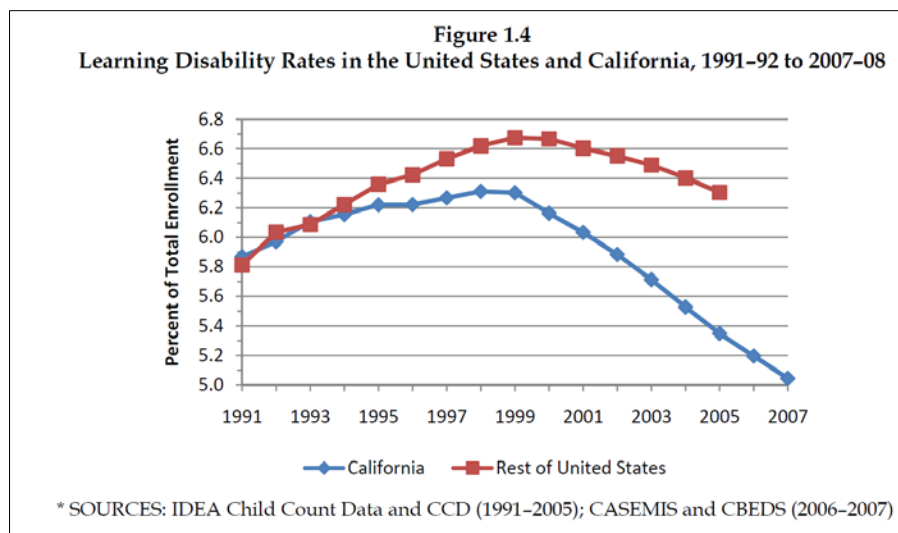
Recognizing that these factors may change over time, AB 602 called for the incidence multiplier to expire after the 2002-03 fiscal year, and called for a new study to be completed by March 2003. AIR completed this second study, which recommended that the incidence multiplier be updated at least every five years, if not annually, that the state gradually phase-out allocation to SELPAs that had been receiving adjustment funds for the five years prior to the release of the report, and provide full and immediate funding to SELPAs identified as responsible for a disproportionate number of high cost students.

The incidence multiplier was never updated due to local concerns about the redistribution of funding. The authority for the SDA was extended annually by legislation for a number of years, and during those years the CDE continued to calculate the adjustment based on the original 1998 formula. In 2011 the Legislature allowed the authority to sunset. At that time the SDA appropriation was \$74 million.

Recommendations to increase funding to address shifts to higher cost placements. Two recent reports make recommendations relating to the need for additional resources for higher-cost services:

- PPIC noted that “the AB 602 formula’s biggest problems are that funding to SELPAs is not equal and that the state had not updated it in response to increased special education caseloads and the rising incidence of high-cost disabilities.” In addition to recommending the equalization of funding rates, PPIC recommended that the state increase funding to special education generally in order to recognize the higher costs generated by rising caseloads relative to ADA and the shift towards more severe disabilities. They tentatively estimated the cost of such an increase at \$1.1 billion a year, and recommended that funding be withheld from districts at the top of the distribution.
- The Task Force, noting that actual expenses far exceed current low incidence funding amounts, that Low Incidence Funding be increased by \$50 million, providing \$1,600 per eligible student.

Proceed with caution when creating a funding system based on identified pupils. This bill essentially proposes a two-part system for funding special education: one census-based funding source for all disabilities and one pupil count-based funding source for higher cost disabilities, provided as an adjustment within LCFF.



Recent history illustrates why creating a pupil-count based allocation for special education is challenging, and requires careful and deliberate consideration:

California’s experience moving from a model based on identified pupils (J-50) to a census-based model (AB 602) provides one illustration of the need for caution. As shown in the chart above (PPIC, 2009), after shifting to a census-based model, the number of students identified as having learning disabilities declined precipitously. PPIC found that the enactment of AB 602, and a similar policy change in the 1997 reauthorization of the IDEA, diminished the fiscal incentive to identify additional students as a means of increasing funding, and found evidence that the same pattern occurred in other states which adopted census-based models.

So is the answer is to base an allocation on the number of students with disabilities which are less prone to over-identification? As noted above, this may not be effective. The existing low incidence funding is based on disabilities which are less prone to over-identification (hearing, visual, and orthopedic impairment). But targeting funding at districts serving those pupils does

not necessarily direct funding to the LEAs experiencing the most cost, because the growth in other higher cost disabilities, most notably ASD.

The fate of the Special Disabilities Adjustment (described above) provides further evidence of the need for caution. As noted above, this adjustment was an original part of AB 602, designed to support SELPAs which had a greater share of higher cost placements. But when the time came to adjust the allocation based on changing local costs, conflict over who would lose and receive the funding made it impossible to re-allocate. After years of inability to resolve the issue and at least seven bills to extend the SDA for one or more years, the Legislature allowed the SDA to sunset.

Given this history, *the Committee may wish to consider* the following questions among others when evaluating or developing a proposal based on identified numbers of students with higher cost disabilities:

- Does the allocation method effectively drive funding to the SELPAs which have higher costs?
- Does the allocation create fiscal incentives to over-identify pupils as having exceptional needs, or as having more severe disabilities?
- Does the allocation allow for adjustments over time to meet changing needs, without devolving into conflict when the time comes to redistribute funding?
- What is the appropriate balance between census-based and pupil count-based allocations of special education funding?
- What is the appropriate level of funding for an extraordinary cost pool vs. an adjustment or grant, and how much support should the state provide to each?
- Should the allocation be funded as a capped appropriation which is prorated based on demand, or as an entitlement that grows?
- Does the allocation allow and prioritize support for early intervention in order to reduce future costs?
- What allowances should be made for small SELPAs?

These are complex issues which require considerable time to address. *The Committee may wish to consider* the importance of carefully and deliberately crafting any new funding mechanism for this purpose. It is unclear how the adjustment proposed by this bill addresses these concerns.

Implications for the Local Control Funding Formula. This bill adds a special education grant to COE LCFFs, to be computed by multiplying the total base grant by the percentage of enrolled pupils who are severely disabled and by 35%, and adds a special education grant to school district and charter school LCFFs, to be computed by multiplying the total base grants by the percentage of enrolled pupils who are severely disabled and by 20%.

2016-17 LCFF Base Grants

County Offices of Education

	\$11,429 per pupil	35% = \$4,000
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School Districts

K-3	\$7,626 per pupil	20% = \$1,525
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4-6	\$7,011 per pupil	20% = \$1,402
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7-8	\$7,220 per pupil	20% = \$1,444
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9-12	\$8,583 per pupil	20% = \$1,716
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This bill adds another category of funding—a special education grant—to the LCFFs. Under existing law, pupils generate supplemental and concentration factor funding if they are low income, English learners, or in foster care. A pupil who falls into more than one of these categories is only counted once for purposes of the formula. They are defined as "unduplicated pupils" in statute. **This bill** provides additional funding for pupils who are severely disabled even if they are already included in the unduplicated pupil count.

Impact on LCFF funding targets/distribution of LCFF dollars. The legislation that established the LCFF (AB 97, Chapter 47, Statutes of 2013) set funding targets for COEs, districts, and charter schools. The cost of fully funding the targets was estimated to require an increase of about \$18 billion for K-12 funding, meaning it would take several years to reach them. Until the targets are fully funded, "gap" funding is provided to each LEA. Specifically, the funding increase that any LEA receives in a fiscal year is dependent on the size of the gap between its current level of funding and its funding target—the larger the gap, the larger the increase. The LAO estimates that the Governor's budget proposal for 2017-18 would result in targets being 96% funded, leaving a gap of 4%.

The calculation of each LEA's LCFF target is based on its base grant. The amount of supplemental and concentration factor grant funding each LEA receives depends on its enrollment of unduplicated students, so, as the enrollment of such students increases, the LCFF target also increases. Similarly, adding another adjustment to the formula for special education students will increase each LEA's target in accordance with its enrollment of severely disabled pupils. As a result, this bill would result in an increase of LCFF funding targets among LEAs, basically making full funding of the formula more costly. With this change, the gap between actual funding and the amount needed to fully fund the statewide LCFF target will be larger than the 4% estimated by the LAO in 2017-18 and will increase the length of time it will take to fully fund the LCFF.

Under this bill, until the LCFF is fully funded, districts that enroll relatively few severely disabled pupils would receive smaller annual increases in their total LCFF funding, and districts that enroll a relatively large number of disabled pupils would get larger increases than they would under existing law. In addition, adding a special education grant would change the allocation of dollars within the categories of the LCFF by reducing the dollars for base,

supplemental grant, and concentration factor funding relative to existing law in order to cover the cost of the new adjustment for severely disabled pupils.

Impact on local budgets. Although this bill will result in funding "winners" and "losers" among LEAs relative to existing law, on average, it will have no impact on total statewide revenues LEAs receive from the LCFF. This is because total K-12 funding is driven by Proposition 98, not by the formula. The primary statewide difference that this bill will make is that LCFF funding will be in four categories instead of three. However, this would have an impact on local budget decision making to the extent the addition of a special education grant reduces funding for the programs and services paid for out of the other three LCFF funding categories. All districts, regardless of the number of severely disabled pupils they enroll, will receive less funding from these three categories than they otherwise would until the formula is fully funded, potentially affecting decision about how funds are spent.

In addition, state and federal categorical funding for special education falls short of actual LEA costs. Therefore, LEA's typically spend a portion of their base grant funding for special education. **This bill** requires that the special education grant be expended for severely disabled pupils. Spending new special education grant funding on special education would likely be offset by a reduction in base grant dollars that are spent for the same purpose. To the extent there would be a dollar-for-dollar offset, total special education spending would not be increased. Accordingly, this bill is likely to have a larger impact on the distribution of LCFF funds among LEAs than on total statewide spending for special education.

Arguments in support. The Los Angeles Unified School District (LAUSD) writes: "The existing AB 602 funding formula is insufficient, inequitable, and does not account for the unique funding obligations of school districts serving students with an array of exceptional needs and types of disabilities...AB 1449 takes great strides toward a funding system that is more equitable, transparent, and focused on the specific needs of students." LAUSD recommends that the author consider including a primary funding base that accounts for poverty and foster youth status, establishing a funding source for students who have exited special education, and establishing a funding source for preschool students with disabilities.

Arguments in opposition. The California Teachers Association writes: "Special education is woefully underfunded at the state and federal level. This bill does nothing to increase that funding, and by moving state special education funding into the LCFF may in fact place that funding in competition with – and possibly subordinate to – other district priorities. By moving special education into LCFF, and thereby removing any distinction from that funding, this bill jeopardizes the current guarantee that districts focus specified financial resources for the benefit of special education students." CTA urges the Legislature to consider this issue carefully and to hold detailed policy committee hearings on subjects relating to the structure, provision, and funding of special education.

Related and prior legislation. AB 312 (O'Donnell) of this Session would require that special education funding rates be equalized to the 90th percentile after the LCFF is fully funded, and creates a funding mechanism for state support of special education preschool.

SB 1071 (Allen) of the 2015-16 Session would have required, upon an appropriation in the Budget Act, a permanent one-time adjustment to the base funding calculation for each special

education local plan area to support special education and related services for three and four year old preschool children with exceptional needs.

REGISTERED SUPPORT / OPPOSITION:

Support

Educate. Advocate.

Los Angeles Unified School District

Torrance Unified School District

Opposition

California Association of School Business Officials

California Teachers Association

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