

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1868 (Luz Rivas) – As Amended March 22, 2022

**SUBJECT:** School accountability: English learners and special education: data

**SUMMARY:** Requires the governing board of a school district or a county office of education (COE), and the governing body of a charter school, to set goals and delineate investments focused on the needs of English learners (ELs) at risk of becoming long-term ELs (LTELs), and LTELs, as specified, in its local control and accountability plan (LCAP); and requires the California Department of Education (CDE) to post on its website academic and other outcome data disaggregated by English language acquisition status, as specified. Specifically, **this bill:**

- 1) Requires, when 25% of a school district's elementary EL pupils in grades 3 to 5, inclusive, are ELs at risk of becoming LTELs (ARLTELs) or when 25% of the secondary EL pupil population of a school district in grades 6 to 12, inclusive, are LTELs, the governing board of the school district to set goals and delineate investments focused on the needs of ELs at risk of becoming LTELs and LTELs in its LCAP.
- 2) Requires, when 25% of a county office of education's (COE's) elementary EL pupils in grades 3 to 5, inclusive, are ARLTELs or when 25% of the secondary EL pupil population of a COE in grades 6 to 12, inclusive, are LTELs, the county board of education to set goals and delineate investments focused on the needs of ELs at risk of becoming LTELs and LTELs in its LCAP.
- 3) Requires, when 25% of a charter school's elementary EL pupils in grades 3 to 5, inclusive, are ARLTELs or when 25% of the secondary EL pupil population of a charter school in grades 6 to 12, inclusive, are LTELs, the governing body of the charter school to set goals and delineate investments focused on the needs of ELs at risk of becoming LTELs and LTELs in its LCAP.
- 4) Requires the CDE to publicly report on an annual basis on its website, or a successor system, enrollment data by English language acquisition status and disability, including reporting on the following disability categories:
  - a) Intellectual disability;
  - b) Hard of hearing;
  - c) Deafness;
  - d) Speech or language impairment;
  - e) Visual impairment;
  - f) Emotional disturbance;

- g) Orthopedic impairment;
  - h) Other health impairment;
  - i) Deaf-blindness;
  - j) Multiple disability;
  - k) Autism;
  - l) Traumatic brain injury; and
  - m) Specific learning disability.
- 5) Requires the CDE to annually include a report that allows users of its website, to view data by English language acquisition status for all of the following subjects:
- a) Assessment data, including California Assessment of Student Performance and Progress (CASPP) test results and English Language Proficiency Assessments for California (ELPAC);
  - b) Enrollment data, including annual enrollment data, EL data, and foster pupil data;
  - c) Graduation and dropout data, including four-year cohort graduation rates and outcomes, five-year cohort graduation rates, one-year graduation data, and one-year dropout data;
  - d) Postsecondary enrollment data, including college-going rates;
  - e) School climate data, including suspension and expulsion data, absenteeism data, and stability rates; and
  - f) Other reports, including free and reduced-price meals.
- 6) Defines “English language acquisition status” for purposes of this requirement to include but not be limited to ELs, separately reporting data for:
- a) LTELs;
  - b) ARLTELs;
  - c) ELs; and
  - d) Reclassified fluent English proficient pupils (RFEPs).

**EXISTING LAW:**

- 1) Requires LEAs to adopt and annually revise LCAPs, establishing annual goals and identifying specific actions, in the following eight state priority areas:
  - a) The degree to which the teachers of the school district are appropriately assigned and fully credentialed in the subject areas, and, for the pupils they are teaching, every pupil in the school district has sufficient access to the standards-aligned instructional materials, and school facilities are maintained in good repair;
  - b) Implementation of the academic content and performance standards adopted by the SBE, including how the programs and services will enable ELs to access the common core academic content standards and the English language development standards (ELD), for purposes of gaining academic content knowledge and English language proficiency;
  - c) Parental involvement, including efforts the school district makes to seek parent input in making decisions for the school district and each individual school site, and including how the school district will promote parental participation in programs for unduplicated pupils and individuals with exceptional needs;
  - d) Pupil achievement, as measured by specified metrics at the state level;
  - e) Pupil engagement, as measured by specified metrics at the state level;
  - f) School climate, as measured by specified metrics at the state level and as developed locally;
  - g) The extent to which pupils have access to, and are enrolled in, a broad course of study, including the programs and services developed and provided to unduplicated pupils and individuals with exceptional needs, and the programs and services that are provided to benefit these pupils as a result of the funding received under the Local Control Funding Formula (LCFF); and
  - h) Pupil outcomes, as measured by specified metrics at the state level. (EC 52060, 47604.33, 47606.5, 52064)
- 2) Requires governing boards of school districts and county boards of education when adopting an LCAP and an annual update to:
  - a) Establish a parent advisory committee to provide advice to the governing board of the school district and the superintendent of the school district regarding the LCAP;
  - b) Establish an English learner parent advisory committee if the school district includes at least 15% ELs in the school district and the school district enrolls at least 50 pupils who are ELs;
  - c) Hold at least one public hearing to solicit recommendations and comments of members of the public;
  - d) Adopt the LCAP or annual update at a public meeting;

- e) Submit the approved LCAP with the county superintendent of schools within five days of local adoption;
  - f) Further requires the district superintendent to:
    - i) Present the LCAP to the parent advisory committee and the ELPAC for review and comment;
    - ii) Notify members of the public of the opportunity to submit written comments related to the LCAP;
    - iii) Review school plans to ensure consistency with the strategies included in the School Plan for Student Achievement;
    - iv) Consult with the special education local plan administrator(s); and
    - v) Post approved LCAPs prominently on the homepage of the website of the school district; and
  - g) Requires charter schools to annually adopt an LCAP to update the goals and annual actions to achieve the goals identified in the charter petition.
- 3) Requires the State Board of Education (SBE) to adopt LCAP templates to be used by school districts, county superintendents of schools, and charter schools.
- 4) Defines an LTEL as a student who is 1) enrolled in any of grades 6 to 12; 2) has been enrolled in schools in the United States for six years or more; 3) has remained at the same English language proficiency level for two or more consecutive prior years, or has regressed to a lower English language proficiency level, as determined by the English language development (ELD) test, or a score determined by the Superintendent of Public Instruction (SPI) on any successor test; and 4) for a student in any of grades 6 to 9, has scored far below basic or below basic on the prior year's English language arts (ELA) test, or a score determined by the SPI on any successor test.
- 5) Defines an ARLTEL as a student who is 1) enrolled in any of grades 3 to 12; 2) has been enrolled in schools in the United States for four to five years; 3) has scored at the intermediate level or below on the prior year's ELD test, or a score determined by the SPI on any successor test, and 4) for a student in any of grades 3 to 9, inclusive, has scored in the fourth or fifth year at the below basic or far below basic level on the prior year's ELA test, or a score determined by the SPI on any successor test.
- 6) Requires that the CDE annually ascertain and report the number of students who are LTELs and ARLTELs and to provide this information to districts and schools, and requires that each school district with ELs annually assess these students' ELD until they are redesignated RFEP.
- 7) Through the federal Individuals with Disabilities Education Act (IDEA), requires that a free appropriate public education (FAPE) be made available to individuals with exceptional needs, and establishes thirteen categories of disability.

- 8) Requires the CDE to develop a manual providing guidance to LEAs on identifying and supporting ELs with disabilities.

**FISCAL EFFECT:** This bill has been keyed a possible state-mandated local program by the Office of Legislative Counsel.

**COMMENTS:**

**Need for the bill.** The author states, “To ensure that our English learner students do not get left behind, AB 1868 will allow the state to better serve our students with highest needs. Specifically, by requiring LEAs to delineate goals and strategies for serving the needs of both long-term English learner students and English learner students in their Local Control and Accountability plan; and requiring the CDE to further separate achievement, enrollment, and other outcomes long-term English learners and students at risk of becoming long-term English learners.

With these newly established strategies and reporting standards for California’s LTELs, the state can intervene at precisely the right moment to strengthen our bilingual students’ language capabilities and prepare them for future academic success.”

**Long Term English Learners.** This bill requires that academic and other specified data for English learners be disaggregated by LTEL, ARLTEL and RFEP language acquisition status.

Current law defines an LTEL as a student who is 1) enrolled in any of grades 6 to 12; 2) has been enrolled in schools in the United States for six years or more; 3) has remained at the same English language proficiency level for two or more consecutive prior years, or has regressed to a lower English language proficiency level; and 4) for a student in any of grades 6 to 9, has scored far below basic or below basic on the prior year’s ELA test.

Current law defines an ARLTEL as a student who is 1) enrolled in any of grades 3 to 12; 2) has been enrolled in schools in the United States for four to five years; 3) has scored at the intermediate level or below on the prior year’s ELD test, and 4) for a student in any of grades 3 to 9, inclusive, has scored in the fourth or fifth year at the below basic or far below basic level on the prior year’s ELA test.

Current law also requires that the CDE annually ascertain and report the number of students who are LTELs and ARLTELs and to provide this information to districts and schools, and requires that each school district with English learners annually assess these students' English language development until they are redesignated as English proficient.

Data for the 2019-20 academic year is shown below:

English Learners				EL Total	RFEP	Total (Ever-EL)
EL 0-3 years	At Risk 4-5 Years	LTEL 6+ Years	EL 4+ Years Not At-Risk or LTEL			
576,805	130,783	204,042	236,394	1,148,024	1,133,977	2,282,001

Source: CDE

Overall, 18% of ELs were LTELs in the 2019-20 academic year. The proportion of ELs who are LTELs increases by grade level, so that by the 12<sup>th</sup> grade, 60% of ELs were LTELs in the 2019-20 academic year.

The state does not disaggregate data for LTELs or ARLTELs, so it is not possible to represent the academic achievement and other indicators for these groups of students. This bill seeks to require that this information be provided by the CDE.

**English learners with disabilities.** This bill requires that specified academic and other outcomes be disaggregated for ELs, LTELs, ARLTELs and RFEP students by the disability categories specified in the federal IDEA.

As noted in this Committee’s analysis of AB 2785 (O’Donnell), Chapter 579, Statutes of 2016, the inappropriate identification of English learners for special education has been a concern since at least the 1960’s, and has been the subject of numerous reports, court cases, and policy initiatives. Research points to a number of problems relating to the difficulty distinguishing between language learning and disability, reclassification, intervention, referral, assessment, and appropriate instruction.

Data comparing the percentage of ELs identified as having disabilities compared to non-English learners is shown below, both as an overall percentage and for several grades:

Special education identification by EL status, 2020-21 school year (Source: CDE)		
	Non-EL (English Only, Initial Fluent English Proficient, RFEP)	EL
All grades	11.2%	18.3%
Grade 2	10.5%	12.3%
Grade 4	12.1%	16.8%
Grade 8	11.3%	24.4%
Grade 12	13.3%	31.2%

In response to these concerns the state has invested in supporting schools in several ways:

- California Practitioners’ Guide for Educating English Learners with Disabilities** AB 2785 (O’Donnell), Chapter 579, Statutes of 2016, required CDE to develop a manual providing guidance to LEAs on identifying and supporting ELs with disabilities. In 2019, the CDE published the *California Practitioners’ Guide for Educating English Learners with Disabilities*, which provides information on identifying, assessing, supporting, and reclassifying ELs who may qualify for special education services and pupils with disabilities who may be classified as ELs. The guide is also intended to assist leaders in developing and implementing policies and practices related to ELs with disabilities.
- Special education resource lead project on English learners with disabilities.** AB 1808 (Committee on Budget), Chapter 76, Statutes of 2018, established special education resource leads to improve pupil outcomes as part of the statewide system of support. Eight special education resource leads were chosen, and the five year contract for these

projects will end at the end of the 2022-23 fiscal year. Among these was the Imperial County SELPA project, Improving Outcomes for English Learners with Disabilities, which offers consultation services to SELPAs who have identified needs associated with improving outcomes for English learners with disabilities, and provides statewide in-person and virtual training opportunities for school personnel.

- ***Alternate ELPAC.*** The CDE is in the process of developing the Alternate ELPAC, an initial and summative assessment for students who have a significant cognitive disability and whose IEP team have decided that the student should take alternate assessments, in addition to being identified as an EL or potential EL. The Alternate ELPAC is aligned to the 2012 California ELD Standards through the ELD Connectors. For each of the 2012 ELD Standards at each grade or grade span assessed on the ELPAC, the ELD Connectors provide an aligned expectation of student ELP that has been reduced in depth, breadth, and complexity in order to be appropriate for students with the most significant cognitive disabilities. According to the CDE's contractor, the Alternate ELPAC will be operational starting on July 1, 2022.

***No publicly available state data on outcomes by disability.*** This bill would require the CDE to publish data about specified groups of ELs, disaggregated by disability group. While the CDE collects data on the progress of students with disabilities in English language arts in grades 3 - 8 and 11, this data is reported as the performance of all students with disabilities, with no disaggregation by disability. As a result it is not possible to examine the language development of any subgroup of students with disabilities (such as those who are visually impaired or on the Autism spectrum) or view trends over time to measure the impact of policy and programmatic changes.

***Goals, Actions, and Services section of the LCAP.*** LEAs must include in their LCAPs a description of the annual goals, for all students and each LCFF identified group of students, to be achieved for each state priority as applicable to type of LEA. Each state priority is measured by state and local indicators, and each state indicator is displayed with colors representing the performance levels of districts, students and schools on the California Schools Dashboard (Dashboard). Students included in the EL student subgroup vary by state indicator.

In the LCAP, LEAs must also include a description of the specific planned actions an LEA will take to meet the identified goals, and a description of the expenditures required to implement the specific actions. This bill applies to state Priority 4: Pupil Achievement, as measured by all of the following, as applicable:

- 1) Statewide assessments;
- 2) The percentage of pupils who have successfully completed courses that satisfy UC or CSU entrance requirements, or programs of study that align with SBE approved career technical educational standards and framework;
- 3) The percentage of EL pupils who make progress toward English proficiency as measured by the English Language Proficiency Assessments for California (ELPAC);
- 4) The English learner reclassification rate;

- 5) The percentage of pupils who have passed an advanced placement examination with a score of 3 or higher; and
- 6) The percentage of pupils who participate in, and demonstrate college preparedness pursuant to, the Early Assessment Program, or any subsequent assessment of college preparedness.

Priority 4: Pupil Achievement is measured by two statewide indicators, as visualized by performance levels (colors) on the Dashboard:

- 1) Student Achievement Indicator. This measure is based on performance on the Smarter Balanced Summative Assessments (SBAC) and the California Alternate Assessments (CAA) for ELA and mathematics—which is administered to students in grades three through eight and grade eleven—and how far the average student is from meeting the grade-level standard. For this indicator, students who are reported as an EL any time during the academic year, including RFEPs, within the last four years are counted as ELs.
- 2) English Learner Progress Indicator (ELPI). The ELPI is based on EL performance on the ELPAC Summative Assessment (SA). For the 2019 Dashboard, the CDE will only have two years of ELPAC SA results from the spring 2018 and 2019 test administrations. As a result, the CDE will report ELPI Status only in the 2019 Dashboard (the most recent year data is available due to the COVID-19 pandemic). ELPI Status measures progress toward English language proficiency. EL students taking the ELPAC SA in grades 1 through twelve in the current year with both a current and prior year ELPAC SA performance level are included in the ELPI Status calculation.

To determine EL progress toward ELP in ELPI Status, ELPAC SA student performance levels in both the current and prior year are converted to ELPI levels. Each student's current year ELPI level is compared to their prior year ELPI level. Those students increasing one or more ELPI levels or maintaining the ELP criterion (Level 4 on the ELPAC SA) are counted as making progress toward ELP. The student level results are aggregated to compute the ELPI Status Rate at the school-and LEA-level.

Because research indicates English language acquisition takes approximately five to seven years, it is important that the ELPI measure progress toward proficiency rather than the end goal of proficiency in itself. Accordingly, the ELPI is the only indicator required under the federal Every Student Succeeds Act (ESSA) to measure *progress towards proficiency* rather than the end goal of proficiency itself. To determine if schools and LEAs are improving the rate of their progress in moving students toward ELP, three years of ELPAC Summative results are required.

### **ELPI Status Rate Calculation Formula**

ELPAC SA Takers Who Increased at least 1 ELPI Level Between the Current and Prior Year  
*plus*  
 ELPAC SA Takers Who Maintained the ELP criterion (Level 4) Between the Current and  
 Prior Year  
*divided by*  
 Total Number of ELPAC SA Takers with Both a Current and Prior Year ELPAC SA Level



***History of the ELPI.*** The SBE adopted the original methodology for the ELPI in 2016, and in 2017 approved adding 1) RFEP students; and 2) an additional weight in the ELPI calculation for LTELs who advanced at least one level on California’s English Proficiency assessment. After the release of the Fall 2017 Dashboard, the U.S. Department of Education (ED) rejected the CDE’s inclusion of RFEP students in the calculation of ELPI. In 2018, the SBE pursued a waiver on the ESSA statute for the EL progress towards proficiency indicator to maintain the current ELPI formula that includes RFEPs and an extra weighting method for LTELs making progress toward proficiency. The waiver was denied by the ED in 2019, thus requiring California’s ELPI to include only the performance of EL students on the summative ELPAC.

***Audit of the Local Control Funding Formula audit.*** In 2020, the California State Auditor completed an audit of the Local Control Funding Formula (LCFF) at the request of the Joint Committee on Legislative Audit. Three large districts were reviewed—Clovis Unified School District, Oakland Unified School District, and San Diego Unified School District. The State Auditor examined whether these districts used supplemental and concentration grant funds, to provide services to the intended student groups (ELs, eligible for free-and reduced-price meals, and foster youth) and whether those services improved the intended student groups’ educational outcomes.

The audit findings included:

- The State’s approach to LCFF has not ensured that funding is benefiting intended student groups and closing achievement gaps.
- The State does not explicitly require districts to spend their supplemental and concentration grant funds on the intended student groups or to track their spending of those funds. Districts can treat any unspent supplemental and concentration funds in a given year as base funds in the following year and can use those funds for general purposes.
- Since fiscal year 2013–14, the deferral of full formula implementation to LCFF has caused the three districts reviewed to identify \$320 million as being part of their base funds rather than supplemental and concentration grant funds.
- Districts do not always include clear information in their LCAPs regarding their use of supplemental and concentration grant funds.
- Policymakers and stakeholders lack adequate information to assess the impact of supplemental and concentration grant funds on the educational outcomes of the intended student groups.

The audit report included the following recommendations for the Legislature:

- To increase the transparency of LCAPs and ensure that stakeholders can provide an adequate level of oversight, the Legislature should amend state law to require districts and other LEAs to specify in their LCAPs the specific amounts of budgeted and estimated actual supplemental and concentration grant expenditures for each service that involves those funds.

- To ensure that intended student groups receive the maximum benefit from supplemental and concentration grant funds, the Legislature should take the following actions:
  - Amend state law to require districts and other LEAs to identify any unspent supplemental and concentration grant funds by annually reconciling the estimated amounts of these funds included in their LCAPs with the actual amounts of these funds the CDE reports having apportioned to them.
  - Amend state law to specify that unspent supplemental and concentration grant funds at year-end must retain its designation to increase and improve services for intended student groups and be spent in a following year. The Legislature should also require districts and other LEAs to identify in their LCAPs for the following year the total amounts of any unspent supplemental and concentration grant funds. In addition, it should direct the State Board of Education to update the LCAP template to require districts and other local educational agencies to report in their LCAPs how they intend to use any previously unspent supplemental and concentration funds to provide services that benefit intended student groups.
- To provide additional data for the State and other stakeholders and to align spending information with the Dashboard indicators or other student outcomes, the Legislature should take the following actions:
  - Require the CDE to update its accounting manual to direct districts and other LEAs to track and report to it the total amount of supplemental and concentration funds they receive and spend each year.
  - Require the CDE to develop and implement a tracking mechanism that districts and other LEAs must use to report to it the types of services on which they spend their supplemental and concentration funds.

***Recent changes to the LCAP template address some concerns identified in audit.*** Several legislative proposals to improve transparency and address concerns related to supplemental and concentration grant fund spending were not ultimately chaptered, however; some of their provisions were enacted through the state budget.

AB 1835 (Weber) of the 2019-20 Session would have required that carryover supplemental and concentration grant funds continue to be expended to increase and improve services for unduplicated pupils in future years, rather than revert to the LEA's general fund. Governor Newsom vetoed AB 1835, stating:

I deeply support the underlying goal of this bill - to ensure that unspent Local Control Funding Formula (LCFF) supplemental and concentration grant funds are expended on services for our most vulnerable students - and I applaud Dr. Weber for her continued leadership. However, I believe there are some fundamental flaws with the bill, and I am concerned that it cannot be implemented in a manner that is smooth or timely.

There is a simpler solution that allows us to address the objectives of AB 1835 much sooner and with more transparency. Therefore, I am directing the Department of Finance to propose language for your consideration as part of my budget in January.

As written, AB 1835 would necessitate that the State Board of Education initiate a lengthy rulemaking process to amend the LCFF spending regulations to add definitions and make other necessary changes to clarify the requirements of the bill. This process would likely delay implementation for two school years. This bill would also impose new and unnecessary procedural requirements on schools that are and will be managing unprecedented challenges related to COVID-19.

We all share the same goal, and it is critical that we act quickly to ensure that funding meant to support our state's most vulnerable students is used for that purpose. I look forward to working with Dr. Weber and the Legislature to implement this requirement in next year's budget.”

Accordingly, the Newsom Administration proposed its own language that was adopted in AB 130 (Committee on Budget), Chapter 44, Statutes of 2021. AB 130 added additional oversight by COEs on actions that satisfy the Minimum Proportionality Percentage (MPP) for LCAPs that propose to expend less on actions to increase or improve services than their LCFF apportionment attributable to supplemental and concentration grant funds. AB 130 also required a specific justification in the LCAP of how services are improved, and that dollars associated with unimplemented actions that are counted toward meeting the MPP be used for actions that meet the needs of English learners, students eligible for free- or reduced-price meals, and foster youth in future years.

Previously, AB 1840 (Committee on Budget, Chapter 426, Statutes of 2018) required more fiscal transparency in LCAPs. Specifically, AB 1840 required the SBE to replace the existing expenditure tables within the “Goals, Actions and Services” section of the LCAP with a new summary table of planned expenditures for all actions for each goal included in the LCAP, broken out by fund source (LCFF, other state, local, and federal). It also required the total overall expenditures to be broken out by personnel and non-personnel expenditures.

Further, the SBE was required to include a summary table within the “Demonstration of Increased or Improved Services” section of the LCAP that includes a summary of the actions and planned expenditures to increase or improve services for ELs, students eligible for free-and reduced-price meals and foster youth students, and required the planned expenditures to be grouped by expenditures provided to students on a districtwide, countywide or charterwide basis, expenditures targeted to one or more student subgroups, and expenditures targeted at specific school sites. The SBE adopted a revised template in January 2020, to implement these requirements.

***LCAP community engagement requirements.*** Current law identifies the minimum consultation requirements for development of the LCAP and annual update. School districts and COEs are required to create and consult with the parent advisory committee and EL parent advisory committee, as applicable, as well as parents, students, teachers, principals, administrators, other school personnel, local bargaining units, and the local community. Parent advisory committees and EL parent advisory committees are subject to the open meeting requirements of the Greene Act. The LCAP instructions provided by the CDE state that the LCAP should be shared with, and LEAs should request input from, school-site level advisory groups as applicable (e.g. school site councils, English Learner Advisory Councils, student advisory groups, etc.) to facilitate alignment between school-site and district level goals and actions.

Since the LCFF and related accountability provisions were enacted, several other resources to improve community engagement at the local level have been established:

- The LCFF Budget Overview for Parents requires COEs, school districts and charter schools to develop a simple budget overview for parents as a part of the LEA's LCAP, and contains the following information: the total projected LCFF revenue for the coming LCAP year; the projected general fund expenditures for the coming LCAP year; the budgeted expenditures for Planned Actions/Services for the coming LCAP year; and a brief description of the activities or programs supported by general fund expenditures that are not included in the LCAP.
- The California Collaborative for Educational Excellence (CCEE) is required to co-administer a Community Engagement Initiative with a lead agency, the San Bernardino County Superintendent of Schools, as established by AB 1808 (Committee on Budget), Chapter 32, Statutes of 2018 for the purpose of:
  - Building capacity in communities and school districts to facilitate difficult conversations that focus on improving outcomes for students;
  - Identifying effective models of community engagement and metrics to evaluate those models;
  - Developing effective peer-to-peer partnerships between school districts and county offices of education to deepen community engagement;
  - Expanding successful community engagement practices statewide; and
  - Serving as a facilitator, resource connector, capacity builder, and relationship builder concerning school districts' efforts to develop community engagement.

***Committee amendments.*** ***Staff recommends that the bill be amended to*** remove the provisions that would require an LEA to include unique goals for ARLTEs, or LTELs, as specified, in the LCAP. Since the creation of the requirement to complete LCAPs, LEAs have been required to establish annual goals and identify specific actions related to the eight state priority areas, including Priority 4: implementation of the academic content and performance standards adopted by the SBE, which 1) specify how the programs and services will enable ELs to access the academic content standards and the EL development standards for purposes of gaining academic content knowledge and English language proficiency, as measured by the ELPI, and 2) measure the progress and performance of all students, as measured by the academic indicators (mathematics and ELA). Although, due to the requirements of the ESSA, the ELPI measures the ELP of ELs only and does not include RFEPs, ARLTEs, or LTELs, LEAs are already charged with contemplating the ELP of all of their students across all state indicators as they establish annual goals and identify specific actions in the LCAP. Further, the development of an LCAP requires robust stakeholder involvement, and several resources and initiatives have been introduced in the last several years to support LEAs as they gather and respond to community input. If a school community has a significant population of ARLTEs or LTELs, the community input process will highlight this as an area of focus, and LEAs are required to respond as the LCAP is developed. Finally, in response to stakeholder concerns related to the transparency and use of supplemental and concentration grant funds for ELs, students eligible for free- or reduced-price meals, and foster youth, the LCAP template used by all LEAs includes

additional requirements for LEAs to display and be accountable for the use of funds targeted at unduplicated pupils.

**Related legislation.** AB 1489 (Ting) of the 2021-22 Session would require, for the 2022–23 fiscal year, the inflation adjustment to the LCFF base grant for a school district or charter school be 10%. This bill would redefine pupils who are eligible for free or reduced-price meals with low-income pupils and pupils experiencing homelessness in the categories of pupils who are unduplicated pupils for purposes of the LCFF. This bill would require pupils who are pupils experiencing homelessness or foster youth, or both, or who are also ELs or low-income pupils, or both, to be counted twice.

SB 3 (Caballero) of the 2021-22 Session would require the CDE, on or before July 1, 2023, to develop an LCAP portal that contains a database connected to a data entry tool that allows comprehensive analysis of LCAPs adopted by LEAs.

SB 692 (Cortese) of the 2021-22 Session would add a measure of least restrictive environment (LRE) for students with disabilities to the local indicators used for purposes of an LEA's or charter school's LCAP, would require state evaluation rubrics to include LRE as an indicator; would require special education local plan areas (SELPAs) to be invited to all differentiated assistance (DA) meetings related to LRE; would prohibit the use of this indicator to identify LEAs and charter schools for DA until the 2025-26 school year; and would require the SPI to conduct a related survey on professional development needed for teachers to be prepared to teach students with learning disabilities and the number of LEAs that are expected to meet the criteria for DA.

AB 130 (Committee on Budget) Chapter 44, Statutes of 2021, added additional oversight by COEs on actions that satisfy the Minimum Proportionality Percentage (MPP) for LCAPs that propose to expend less on actions to increase or improve services than their LCFF apportionment attributable to supplemental and concentration funds. The bill also required a specific justification of how services are improved, and that dollars associated with unimplemented actions that are counted toward meeting the MPP be used for actions that meet the needs of unduplicated students in future years.

AB 1363 (Luz Rivas), Chapter 498, Statutes of 2021, requires the SPI to develop procedures for providers to identify and report data on dual language learners (DLLs) enrolled in the California State Preschool Program (CSPP).

AB 398 (Chu) of the 2019-20 Session would have required the CDE to incorporate elementary enrollment and completion data for visual and performing arts (VAPA) into the CALPADS. This bill would have required school districts to submit VAPA data via CALPADS for grades kindergarten through sixth (K-6), and would have required school districts to include VAPA data in their LCAPs. This bill was subsequently amended outside the jurisdiction of this Committee.

AB 1240 (Weber), Chapter 783, Statutes of 2019, requires school districts and county boards of education to measure pupil achievement in their respective LCAPs by separate calculations for 1) the percentage of pupils who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University, 2) the percentage of pupils who have successfully completed courses that satisfy the requirements for career technical education (CTE) sequences or programs of study that align with state board-

approved CTE standards and frameworks, and 3) the percentage of pupils who have successfully completed both types of courses described in 1) and 2).

AB 1834 (Weber) of the 2019-20 Session would have required, on or before January 1, 2021, the CDE to develop a tracking mechanism for LEAs to use to report the types of services on which they spend their supplemental and concentration and grant funds. This bill would have also required each LEA to annually report to the CDE the types of services on which it spends its supplemental and concentration grant funds using the CDE-developed tracking mechanism. This bill was held in this Committee.

AB 1835 (Weber) of the 2019-20 Session would have required school districts, COEs, and charter schools to identify unspent supplemental and concentration grant funds, and that those funds continue to be expended to increase or improve services for unduplicated pupils. This bill would have also required that the amount of the unspent funds be reported in the LCAP. This bill was vetoed by the Governor.

AB 1840 (Committee on Budget), Chapter 426, Statutes of 2018, requires the SBE to replace the existing LCAP expenditure tables within the "Goals, Actions and Services" section with a new summary table of planned expenditures for all actions for each goal included in the LCAP, broken out by fund source (LCFF, other state, local, and federal).

AB 2785 (O'Donnell), Chapter 579, Statutes of 2016, requires CDE to develop a manual providing guidance to LEAs on identifying and supporting ELs with disabilities.

AB 491 (Gonzalez) of the 2015-16 Session would have required that parents be annually informed if their children are LTELs or at risk of becoming ARLTELs, required the CDE to develop a sample notification letter informing parents of their right to dispute school districts' determinations of primary language, and required districts to provide the letter to parents at the time the home language survey is provided. This bill was vetoed by the Governor, who stated:

Given that English learners constitute approximately one-fourth of students enrolled in California public schools, I agree that we need to do a better job explaining to parents how their student may be designated as an English learner and what happens once they receive this designation. The specific statements included in this bill, however, are not clear and will cause more confusion for parents, not less.

This is an important matter that we have to get right.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Association for Bilingual Education (co-sponsor)  
 Californians Together (co-sponsor)  
 California Association of Teachers of English to Speakers of Other Languages  
 Center for Equity for English Learners, Loyola Marymount University  
 Parent Institute for Quality Education  
 Parent Organization Network  
 Sobrato Early Academic Language  
 The Children's Partnership

The Education Trust West  
UnidosUS  
One individual

**Opposition**

None on file

**Analysis Prepared by:** Tanya Lieberman and Marguerite Ries / ED. / (916) 319-2087