

**Introduced by Senator Romero**February 24, 2006

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An act to amend Section 60851 of, and to add Sections 60851.1, 60852.7, and 78402 to, the Education Code, relating to pupils.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1592, as introduced, Romero. Schools: high school exit examination.

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 exit examination as a condition of graduation from high school.

This bill would instead require each pupil completing grade 12 to successfully pass the exit examination as a condition of receiving a diploma with an insignia affixed to it indicating successful passage of the high school exit examination. The bill would prohibit a pupil who does not pass the high school exit examination from receiving the insignia described above.

The bill would require the Superintendent of Public Instruction to report whether each high school ranked in deciles 1 to 3, inclusive, of the Academic Performance Index and identified for review by a county superintendent of schools provides for all pupils specified resources necessary for successfully passing the high school exit examination. This bill would require the Superintendent of Public Instruction, by September 1 of each year, to prepare and submit a report to the Legislature that identifies the high schools that do not

provide those resources, including the resources each high school is not providing.

The bill would require the Superintendent, by January 31, 2007, to amend, and the State Board of Education to approve, the scope of work of the independent evaluator, to perform specified duties with existing funding, including, but not limited to, identifying programs, services, and resources provided with respect to the high school exit examination, and preparing a specified report. The bill would provide that implementation of these provisions is subject to appropriation by the Legislature in the annual Budget Act or in another statute for the work of the independent evaluator, and that if state funding is not available for implementation of these provisions, these provisions may be implemented with the use of private funding that is sufficient to pay the costs of implementation.

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state. Existing law declares that the high school diploma program is the responsibility of high school and unified school districts, but that courses leading to a high school diploma may be offered by a community college district pursuant to a mutual agreement. Existing law requires the governing board of any community college district maintaining an adult school to prescribe the requirements for the granting of diplomas.

This bill would authorize the board of governors to designate, and thereby authorize, specific community colleges to grant to a pupil a diploma, as defined, that is not subject to any requirement that the pupil successfully pass the California High School Exit Examination. The bill would require the board of governors to designate these community colleges, distributed in a geographically diverse manner, as it determines to be necessary to meet the needs of potential pupils.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

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

3 (a) Numerous studies have determined and the California  
4 Commission on Teacher Credentialing has found that a quality  
5 teacher is the single most important element affecting pupil  
6 achievement.

7 (b) Far too many pupils in California who are failing the high  
8 school exit examination are being taught by underprepared  
9 teachers who have not been fully trained in their subject matter or  
10 in how to teach their subject matter, or both, including how to  
11 teach to California's rigorous content standards in English and  
12 Math or are teaching English Learners without the necessary  
13 training, or both.

14 (c) According to the report titled "The Status of the Teaching  
15 Profession 2005," prepared by The Center for the Future of  
16 Teaching and Learning (CFTL):

17 (1) In the 2004–05 school year, there were 20,399 teachers in  
18 California that were underprepared and teaching without the  
19 state's preliminary credential. Of those 20,399 teachers,  
20 approximately 10,000 were interns who have passed subject  
21 matter tests but did not complete other requirements to become a  
22 teacher and approximately 10,000 were teachers with an  
23 emergency permit, pre-interns, or teachers with waivers who did  
24 not meet the "highly qualified" provisions of No Child Left  
25 Behind Act (NCLB).

26 (2) Underprepared teachers are not equally distributed  
27 throughout California school districts. In 2004–05, 1 out of every  
28 5 teachers in the lowest achieving schools were underprepared or  
29 novice, or both, compared to only 1 in 10 in the highest  
30 achieving schools.

31 (3) During the course of a pupil's academic career, he or she is  
32 likely to face more than one underprepared or novice, or both,  
33 teacher and possibly a succession of them in back-to-back years,  
34 and during the course of a pupil's attendance at a secondary  
35 school he or she may face more than one underprepared or  
36 novice, or both, teacher in the course of a single day.

37 (4) Pupils who are having the most difficulty passing the  
38 California High School Exit Examination (CAHSEE) are the

1 pupils most likely to have teachers that are the least prepared to  
2 help them.

3 (5) Although most schools have relatively few out-of-field  
4 teachers, the number of pupils affected across the state is  
5 significant. In 2004–05, 12 percent of high school teachers  
6 (approximately 1,400) are assigned to teach math without a math  
7 credential, affecting approximately ninety-one thousand (91,000)  
8 or 6 percent of all high school pupils taking math. In English  
9 language arts, 15 percent of teachers (approximately 2,500) are  
10 assigned to teach English without an English language arts  
11 credential, affecting a total of one hundred forty-nine thousand  
12 (149,000) or 8 percent of all high school pupils enrolled in  
13 English courses.

14 (6) Nearly one in four teachers is underprepared or novice in  
15 the subjects covered by the CAHSEE.

16 (7) In 2004–05, 26 percent of teachers in the high schools with  
17 the lowest passing rates on the math section of the CAHSEE  
18 were underprepared or novice, or both, teachers compared with  
19 14 percent of teachers in high schools with the highest passing  
20 rates.

21 (8) In 2004–05, 25 percent of teachers in the high schools with  
22 the lowest passing rates on the English language arts section of  
23 the CAHSEE were underprepared or novice, or both, teachers  
24 compared with 14 percent of teachers in high schools with the  
25 highest passing rates.

26 (9) Schools that serve the highest proportion of poor and  
27 minority pupils and English learners have four times as many  
28 underprepared math teachers as a school with a low number of  
29 minority pupils.

30 (d) According to the report titled “The Williams v. California  
31 Settlement: The First Year of Implementation,” prepared by  
32 Counsel for the Williams Plaintiffs, as a result of the settlement  
33 in Williams et al. v. State of California, et al. (County of San  
34 Francisco Superior Court, Case Number 312236), at least 32,163  
35 classes were identified in which 20 percent or more of the pupils  
36 were English learners and teachers did not receive the  
37 appropriate training to teach English learners. Partial reports  
38 confirm that at least 1,142 of the misassignments were corrected  
39 last year.

1 (e) According to the report titled “California’s Hidden Teacher  
2 Spending Gap: How State and District Budgeting Practices  
3 Shortchange Poor and Minority Students and their Schools,”  
4 prepared by The Education Trust-West:

5 (1) There are dramatic spending gaps in teacher salaries within  
6 districts resulting in more highly paid teachers, therefore, more  
7 experienced and highly credentialed teachers, being concentrated  
8 in more affluent schools and schools with a higher percentage of  
9 white pupils.

10 (2) Pupils of color and pupils from low-income families  
11 receive, at a disproportionately higher rate, instruction from  
12 underqualified teachers who have not been trained to teach the  
13 state’s content standards.

14 (f) According to the Human Resources Research Organization  
15 (HumRRO), the number of pupils who are at risk of failing the  
16 California High School Exit Examination (CAHSEE) is likely  
17 between 50,000 and 90,000 pupils.

18 (g) According to the report titled “California’s Teaching Force  
19 2004: Key Issues and Trends,” prepared by CFTL, in 2003–04, in  
20 schools where over 30 percent of pupils failed the mathematics  
21 portion of the CAHSEE, the average percentage of  
22 underprepared teachers is 22 percent. By comparison, in schools  
23 where only 9 percent of pupils failed the mathematics portion,  
24 the average percentage of underprepared teachers is only 7  
25 percent.

26 (h) The State’s independent evaluator of the CAHSEE found  
27 that teacher qualification is directly related to pupil performance  
28 on the CAHSEE and over half of schools reported math teachers  
29 with emergency credentials, and one third of schools reported  
30 English/Language Arts teachers with emergency credentials.  
31 (HumRRO)

32 (i) California has recently acknowledged in the settlement of  
33 Williams et al. v. State of California, et al. (County of San  
34 Francisco Superior Court, Case Number 312236), that the  
35 established minimum threshold of a qualified teacher for every  
36 pupil is intended by the Legislature and the Governor to be a  
37 floor, rather than a ceiling, and a beginning, not an end, to the  
38 state’s commitment and effort to ensure that all California pupils  
39 have access to the basic elements of a quality public education.

1 (j) The Harvard University Civil Rights Project’s report titled  
2 “Confronting the Graduation Rate Crisis in California” found  
3 that California’s overall high school graduation rate was 71  
4 percent for 2002.

5 (k) This Harvard report found that only 64 percent of all pupils  
6 in central city school districts graduate with regular diplomas. In  
7 racially segregated school districts, only 65 percent of all pupils  
8 graduate, and only 58 percent graduate in socioeconomically  
9 segregated school districts.

10 (l) When high numbers of youth leave school ill prepared to  
11 contribute to our labor force and to civic life, our economy and  
12 our democracy suffer. The Harvard report found that the 66,657  
13 pupils who were reported as dropouts from the California public  
14 schools in 2002–03 will cost the state \$14 billion in lost wages.

15 (m) A report by the University of California All Campus  
16 Consortium on Research for Diversity (UC/ACCORD) found  
17 that in the state’s largest school district, Los Angeles Unified  
18 School District, fewer than half of the African American and  
19 Latino pupils who start grade 9 complete grade 12 four years  
20 later.

21 (n) The most critical factor in pupil achievement is a qualified  
22 teacher. A recent report by Education Trust-West, titled  
23 “California’s Hidden Teacher Spending Gap,” reported dramatic  
24 spending gaps in teacher salaries within districts, with more  
25 highly paid teachers and, therefore, more experienced and highly  
26 credentialed teachers, concentrated in more affluent and white  
27 schools. Pupils of color and pupils from low-income families  
28 receive, at a disproportionately higher rate, instruction from  
29 underqualified teachers who have not been trained to teach the  
30 state’s content standards.

31 (o) A 2004 report by the Center for the Future of Teaching and  
32 Learning, titled “California’s Teaching Force 2004: Key Issues  
33 and Trends,” reported that in 2003–04, slightly more than 28,000  
34 teachers — or about one in every 11 California teachers — were  
35 underprepared and teaching without benefit of having met the  
36 state’s minimum qualifications, and without training to teach to  
37 the state’s content standards. There are far more of these  
38 underprepared teachers in schools that have high failure rates on  
39 the high school exit examination. In schools where over 30  
40 percent of pupils failed the mathematics portion of the exit

1 examination the average percentage of underprepared teachers is  
2 22 percent. By comparison, in schools where only 9 percent of  
3 pupils failed the mathematics portion, the average percentage of  
4 underprepared teachers is only 7 percent.

5 (p) California has recently acknowledged in the settlement of  
6 Williams v. State of California, that the established minimum  
7 thresholds for teacher quality, instructional materials, and school  
8 facilities are intended by the Legislature and the Governor to be  
9 a floor, rather than a ceiling, and a beginning, not an end, to the  
10 state's commitment and effort to ensure that all California pupils  
11 have access to the basic elements of a quality public education.

12 (q) California ranks last in the nation in the ratio of pupils to  
13 counselors at 954:1. School counselors serve a vital role in  
14 promoting pupil achievement and serving as pupil advocates who  
15 focus on the relationships and interactions between pupils and  
16 their school environment, with the expressed purpose of reducing  
17 the effect of environmental and institutional barriers that impede  
18 academic success.

19 (r) It is essential that California provide the minimum  
20 resources for all pupils to learn the skills and material that they  
21 need to learn in order to pass the high school exit examination.

22 (s) It is essential that California provide the minimum  
23 opportunities for all pupils to learn the skills and material that  
24 they need to learn in order to pass the California High School  
25 Exit Examination.

26 (t) It is, therefore, the intent of the Legislature that efforts to  
27 recruit and retain highly qualified teachers shall be prioritized by  
28 allocating those teachers to high schools which are identified by  
29 the Superintendent as having a 25 percent or greater number of  
30 underprepared teachers.

31 SEC. 2. Section 60851 of the Education Code is amended to  
32 read:

33 ~~60851. (a) Commencing with the 2003-04 school year and~~  
34 ~~each~~ Each school year thereafter, each pupil completing grade 12  
35 shall successfully pass the high school exit examination as a  
36 condition of receiving a diploma of graduation *with an insignia*  
37 *affixed to it indicating successful passage of the high school exit*  
38 ~~examination or a condition of graduation from high school.~~  
39 Funding for the administration of the high school exit  
40 examination shall be provided for in the annual Budget Act. The

1 Superintendent shall apportion funds appropriated for this  
2 purpose to enable school districts to meet the requirements of this  
3 subdivision and subdivisions (b), (c), and (d). The state board  
4 shall establish the amount of funding to be apportioned per test  
5 administered, based on a review of the cost per test.

6 (b) Each pupil shall take the high school exit examination in  
7 grade 10 ~~beginning in the 2001-02 school year~~ and may take the  
8 examination during each subsequent administration, until each  
9 section of the examination has been passed.

10 (c) (1) ~~At the parent or guardian's request of the parent or~~  
11 ~~guardian,~~ a school principal shall submit a request for a waiver  
12 of the requirement to successfully pass the high school exit  
13 examination to the governing board of the school district for a  
14 pupil with a disability who has taken the high school exit  
15 examination with modifications that alter what the test measures  
16 and has received the equivalent of a passing score on one or both  
17 subject matter parts of the high school exit examination. ~~A~~The  
18 governing board of a school district may waive the requirement  
19 to successfully pass one or both subject matter parts of the high  
20 school exit examination for a pupil with a disability if the  
21 principal certifies to the governing board of the school district  
22 that the pupil has all of the following:

23 (A) An individualized education program adopted pursuant to  
24 the federal Individuals with Disabilities Education Act (20  
25 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section  
26 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec.  
27 794(a)) in place that requires the accommodations or  
28 modifications to be provided to the pupil when taking the high  
29 school exit examination.

30 (B) Sufficient high school level coursework either  
31 satisfactorily completed or in progress in a high school level  
32 curriculum sufficient to have attained the skills and knowledge  
33 otherwise needed to pass the high school exit examination.

34 (C) An individual score report for the pupil showing that the  
35 pupil has received the equivalent of a passing score on the high  
36 school exit examination while using a modification that  
37 fundamentally alters what the high school exit examination  
38 measures as determined by the state board.

39 (2) A school district shall report to the state board, in a manner  
40 and by a date determined by the Superintendent, the number and

1 characteristics of waivers reviewed, granted, and denied under  
2 this subdivision and any additional information determined to be  
3 in furtherance of this subdivision.

4 (d) The high school exit examination shall be offered in each  
5 public school and state special school that provides instruction in  
6 grades 10, 11, or 12, on the dates designated by the  
7 Superintendent. ~~At~~ *The high school* exit examination may not be  
8 administered on any date other than those designated by the  
9 Superintendent as examination days or makeup days.

10 (e) The results of the high school exit examination shall be  
11 provided to each pupil taking the examination within eight weeks  
12 of the examination administration and in time for the pupil to  
13 take any section of the examination not passed at the next  
14 administration. A pupil shall take again only those parts of  
15 the *high school exit* examination he or she has not previously  
16 passed and may not retake any portion of the ~~exit~~ examination  
17 that he or she has previously passed.

18 (f) Supplemental instruction shall be provided to any pupil  
19 who does not demonstrate sufficient progress toward passing the  
20 high school exit examination. To the extent that school districts  
21 have aligned their curriculum with the state academic content  
22 standards adopted by the state board, the curriculum for  
23 supplemental instruction shall reflect those standards and shall be  
24 designed to assist the pupils to succeed on the high school exit  
25 examination. This chapter does not require the provision of  
26 supplemental services using resources that are not regularly  
27 available to a school or school district, including summer school  
28 instruction provided pursuant to Section 37252. In no event shall  
29 any action taken as a result of this subdivision cause or require  
30 reimbursement by the Commission on State Mandates. Sufficient  
31 progress *by a pupil* shall be determined on the basis of either of  
32 the following:

33 (1) The results of the assessments administered pursuant to  
34 Article 4 (commencing with Section 60640) of Chapter 5 of Part  
35 33 and the minimum levels of proficiency recommended by the  
36 state board pursuant to Section 60648.

37 (2) The grades ~~of the pupil~~ and other indicators of academic  
38 achievement *of the pupil, as* designated by the school district.

39 (g) *A pupil who does not successfully pass the high school exit*  
40 *examination, but completes all other high school requirements*

1 *for a high school diploma shall not have the insignia described in*  
2 *subdivision (a) affixed to his or her diploma.*

3 SEC. 3. Section 60851.1 is added to the Education Code, to  
4 read:

5 60851.1. (a) The Superintendent shall report whether each  
6 high school ranked in deciles 1 to 3, inclusive, of the Academic  
7 Performance Index pursuant to Sections 52052 and 52056, and  
8 identified for review by a county superintendent of schools  
9 pursuant to subparagraph (A) of paragraph (2) of subdivision (c)  
10 of Section 1240, provides for all pupils the following resources  
11 necessary for successful passage of the exit examination:

12 (1) Fully certificated teachers, including teachers for English  
13 learners, in core subject areas, to be determined based on the  
14 most current department data from the California Basic  
15 Educational Data System and, as necessary, on the annual  
16 Language Census conducted by the department.

17 (2) Instructional materials, as defined in subdivision (h) of  
18 Section 60010, aligned with the content standards being tested on  
19 the exit examination. For purposes of this paragraph, the  
20 Superintendent shall utilize information from the annual  
21 instructional material review performed by the county  
22 superintendent of schools pursuant to subparagraph (E) of  
23 paragraph (2) of subdivision (c) of Section 1240.

24 (3) Counselor-to-pupil ratios of at least 1:476, so as to support  
25 the guidance of pupils in their successful passage of the exit  
26 examination, to be determined based on the most current  
27 department data from the California Basic Educational Data  
28 System.

29 (b) By September 1 of each year, the Superintendent shall  
30 prepare and submit a report to the Legislature that identifies the  
31 high schools that do not provide the resources pursuant to  
32 paragraphs (1) to (3), inclusive, of subdivision (a), including the  
33 resources each high school is not providing.

34 SEC. 4. Section 60852.7 is added to the Education Code, to  
35 read:

36 60852.7. (a) By January 31, 2006, the Superintendent shall  
37 amend, and the State Board of Education shall approve, the scope  
38 of work by the independent evaluator selected pursuant to  
39 Section 60855, to do all of the following with existing funding:

1 (1) Identify the programs, services, and resources that were  
2 provided to pupils in each graduating class that failed the exit  
3 examination in their 10<sup>th</sup> grade year and subsequently passed the  
4 examination.

5 (2) Identify the programs, services, and resources that were  
6 provided to pupils in each graduating class that failed the exit  
7 examination in their 10<sup>th</sup> grade year and either did not retake the  
8 examination or failed the examination in subsequent  
9 administrations.

10 (3) Identify the programs, services, and resources that were  
11 provided to pupils in each graduating class that were successful  
12 on the exit examination in their 10<sup>th</sup> grade year.

13 (b) The independent evaluator shall prepare a report that  
14 assesses the extent to which English learners, low-income pupils,  
15 and pupils who are members of the subgroups identified in  
16 Chapter 6.1 (commencing with Section 52050) of Part 28 are  
17 being provided with the programs, services, and resources  
18 identified in subdivision (a).

19 (c) The independent evaluator shall submit the final report to  
20 the Legislature, the Legislative Analyst, the Department of  
21 Finance, and the department no later than December 1, 2006. The  
22 independent evaluator shall submit the final report to other  
23 interested parties, as appropriate.

24 (d) Implementation of this section is subject to appropriation  
25 by the Legislature in the annual Budget Act or in another statute,  
26 for the work of the independent evaluator contracted to perform  
27 the evaluation pursuant to Section 60855. If, for any reason, state  
28 funding is not available for implementation of this section, this  
29 section may be implemented with the use of private funding that  
30 is sufficient to pay the costs of implementation.

31 SEC. 5. Section 78402 is added to the Education Code, to  
32 read:

33 78402. Notwithstanding any other provision of law, the board  
34 of governors may designate, and thereby authorize, specific  
35 community colleges to grant to a pupil a diploma, in accordance  
36 with Section 8531 and this article, that is not subject to any  
37 requirement that the pupil successfully pass the California High  
38 School Exit Examination. The board of governors shall designate  
39 community colleges pursuant to this section, distributed in a  
40 geographically diverse manner, as it determines to be necessary

- 1 to meet the needs of potential pupils. As used in this section,
- 2 “diploma,” means a diploma conferred on a pupil by a
- 3 community college district pursuant to Section 8531.

O