

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 14, 2010

**SENATE BILL**

**No. 1396**

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**Introduced by Senators Lowenthal and Romero**

*(Principal coauthor: Assembly Member Torlakson)*

*(Coauthors: Assembly Members Bonnie Lowenthal and Villines)*

February 19, 2010

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An act to add and repeal Chapter 3 (commencing with Section 63060) of Part 35 of Division 4 of Title 2 of the Education Code, relating to education funding.

LEGISLATIVE COUNSEL'S DIGEST

SB 1396, as amended, Lowenthal. Education funding: maximum categorical education flexibility pilot program.

Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2012–13 fiscal years, inclusive, to apportion from the amount provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs and authorizes school districts, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law. Existing law, for those fiscal years, deems local educational agencies that use these categorical education program funds for any educational purpose to be in

compliance with the program and funding requirements of those categorical education programs.

Existing law, as a condition of receiving the categorical education program funds that may be used for any educational purpose, requires school districts and county offices of education, at a regularly scheduled, open, public hearing, to take testimony from the public, discuss, and approve or disapprove the proposed use of funding. Existing law requires a local educational agency to report expenditures, as specified, to indicate the activities for which these funds were expended and requires the department annually to collect and provide this information to the appropriate legislative policy and budget committees and the Department of Finance.

This bill would establish the 3-year Maximum Categorical Education Flexibility Pilot Program in which *up to* 3 school districts would be selected to participate. To be eligible for selection, a school district would be required to meet certain preconditions, including developing a plan or initiative to accelerate pupils' progress to proficiency that includes specified goals. A school district selected to participate would be required to agree to demonstrate significant progress toward accelerating pupils' progress toward proficiency on California's academic standards over the 3-year pilot ~~project~~ *program* period, a narrowing of the achievement gap in its federally recognized subgroups, fiscal solvency, positive growth on the district API, improvement in its college entrance rate, and an increase in its graduation rate.

The bill would require the Superintendent to apportion to the participating school districts ~~a categorical education block grant based on the~~ *special apportionments equal to the amounts of funding those school districts received in the 2009–10 fiscal year for specified programs, including the Economic Impact Aid Program, the Class Size Reduction Program, ~~Child Nutrition Programs,~~ and Transportation Programs, except special education pupil transportation.*

A participating school district would be allowed to use the ~~block grant funds~~ *special apportionments* for any purpose related to improving pupil achievement and academic instruction and would be required to implement an open and transparent process that allows public input ~~when discussing and deciding on the expenditure of categorical education block grant funds so as to notify parents, staff, and the community of discussions and pending decisions related to the flexible use of categorical education program funds.~~ A participating school district would be deemed to be in compliance with the program and

funding requirements associated with the categorical education programs included in the ~~block grant pilot program~~, except that a participating school district that receives funding for economic impact aid would be required to continue to designate staff to coordinate services and programs for English learners, including the home language survey, and to continue in existence parent advisory committees and schoolsite councils.

A participating school district would be required to submit an evaluative annual report to the department, the state board, the Governor, and the Legislature and to submit to the department an annual expenditure report. ~~The participating school districts would be required to provide for an independent~~ *Superintendent would be required to contract for an independent evaluation of the pilot program that would consist of an interim evaluation report and a final independent evaluation report that identifies the success and failures of the pilot program and makes recommendations regarding improving the pilot program and whether the program should be continued. The bill would prohibit the waiver of any provisions of the pilot program.*

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) California school districts are facing immeasurable
- 4 challenges managing reductions in state funding and need
- 5 maximum flexibility in the ways they can utilize restricted funding
- 6 from the state.
- 7 (b) The pilot project enacted by this act would give three school
- 8 districts maximum flexibility by creating a new categorical program
- 9 block grant that would include all the funding for categorical
- 10 education programs received by the district and allow that funding
- 11 to be used for any purpose related to improving pupil achievement
- 12 and academic instruction.
- 13 (c) The pilot project will demonstrate to state policymakers that
- 14 state money for categorical education programs can be managed
- 15 more efficiently and effectively by school districts to meet the
- 16 academic needs of all pupils and result in progress in closing the
- 17 achievement gap.

1 (d) Maximum categorical program flexibility will enhance a  
 2 school district's ability to support academic and career goals for  
 3 all pupils and provide systematic, differentiated instruction and  
 4 interventions to accelerate pupils' progress to proficiency.

5 (e) The pilot program will allow the state to evaluate the benefits  
 6 of maximum categorical program flexibility and ensure that  
 7 flexibility, when used correctly, will result in gains in pupil  
 8 achievement.

9 SEC. 2. Chapter 3 (commencing with Section 63060) is added  
 10 to Part 35 of Division 4 of Title 2 of the Education Code, to read:

11  
 12 CHAPTER 3. MAXIMUM CATEGORICAL EDUCATION FLEXIBILITY  
 13 PILOT PROGRAM  
 14

15 63060. The Maximum Categorical Education Flexibility Pilot  
 16 Program is hereby established. The pilot project shall be  
 17 implemented during the 2011–12, 2012–13, and 2013–14 fiscal  
 18 years. The Superintendent may select *up to* three school districts  
 19 to participate in the pilot project. To the extent there are qualified  
 20 applicants, the Superintendent shall select ~~a geographically diverse~~  
 21 ~~group of school districts of varying size to participate in the pilot~~  
 22 ~~project.~~ *school districts that satisfy the following characteristics:*

23 (a) *Are geographically diverse.*

24 (b) *Represent a wide range of school district enrollment.*

25 (c) *Are not all of the same school district type.*

26 (d) *Represent the state's wide range of pupil and family*  
 27 *demographics, especially in terms of income, race, ethnicity, and*  
 28 *language diversity.*

29 63061. (a) In order to be eligible to apply for selection, a  
 30 school district shall meet the following preconditions:

31 (1) The school district has a plan or initiative, developed in  
 32 conjunction with parents and teachers, to accelerate pupils' progress  
 33 to proficiency. The plan shall include ~~measurable~~ *both of the*  
 34 *following:*

35 (A) *Measurable* metrics to improve pupil performance, close  
 36 the achievement gap, increase college entrance rates, and increase  
 37 career readiness.

38 (B) *An explanation of the manner in which the objectives of*  
 39 *each categorical program funded under the budget items listed in*  
 40 *subdivision (a) of Section 63063 will be met.*

- 1 (2) The governing board of the school district, at a regularly  
2 scheduled public meeting of the board, has approved the plan and  
3 developed corresponding policies in support of the plan.
- 4 (3) The annual evaluation of the performance of the  
5 superintendent of the school district is linked to the pupil  
6 performance goals specified in *paragraph (1) of subdivision (a)*.
- 7 (4) The school district ~~can demonstrate~~ *demonstrates* a pattern  
8 of stability between management and the bargaining units.
- 9 (5) There is community support for the plan.
- 10 (6) The school district has surveyed all parents and legal  
11 guardians in the district to gauge support for participation in the  
12 pilot program. At least one-half of the permanent teachers and  
13 one-half of the surveyed parents or legal guardians in the district  
14 support participation in the pilot program, and that support is  
15 demonstrated in writing.
- 16 (7) The standards-based curriculum for English learners is  
17 cognitively complex, coherent, well articulated, meaningful, and  
18 will enable English learners to learn English quickly and fluently  
19 so that they may participate fully in the grade-level curriculum.  
20 At a minimum, the program shall provide all of the following:
- 21 (A) Support for English learners who are new to the district.
- 22 (B) An English language development program that is  
23 comprehensive and standards aligned and that has all of the  
24 following characteristics:
- 25 (i) Actively develops all domains of language.
- 26 (ii) Addresses varying levels of English fluency.
- 27 (iii) Develops age-appropriate and context-appropriate language,  
28 including an emphasis on academic English.
- 29 (iv) Includes opportunities for English learners to interact with  
30 native English speaking peers.
- 31 (v) Creates a supportive learning environment for language  
32 learning.
- 33 (vi) Recognizes the role of primary language development.
- 34 (C) Full access to a challenging curriculum.
- 35 (D) High-quality instruction and materials.
- 36 (E) An inclusive and affirming school climate.
- 37 (F) Valid, comprehensive, and useful assessments.
- 38 (G) Strong family partnerships.
- 39 (H) A qualified educator workforce.

1 (b) At a minimum, the Superintendent shall consider the quality  
2 and rigor of the *manner in which the applicants meet the*  
3 preconditions outlined in subdivision (a).

4 (c) *If the Superintendent determines that an applicant fails to*  
5 *meet the preconditions specified in subdivision (a) with respect to*  
6 *some of the categorical education programs funded under budget*  
7 *items listed in subdivision (a) of Section 63063, the Superintendent*  
8 *may select that applicant school district as a participant and*  
9 *restrict the participation of that school district in the pilot project*  
10 *to a subset of the categorical education programs and budget*  
11 *items.*

12 (e)  
13 (d) Nothing in this section shall be construed as imposing new  
14 mandates on school districts.

15 63062. A school district selected to participate in the pilot  
16 project shall agree to demonstrate all of the following:

17 (a) Significant progress toward accelerating pupils' progress  
18 toward proficiency on California's academic standards over a  
19 three-year period, as measured by the annual assessments  
20 administered pursuant to Article 4 (commencing with Section  
21 60640) of Chapter 5 of Part 33 and any other local, state, or  
22 national assessments.

23 (b) A narrowing of the achievement gap in the district's federally  
24 recognized subgroups, as measured by the annual assessments  
25 administered pursuant to Article 4 (commencing with Section  
26 60640) of Chapter 5 of Part 33 and any other local, state, or  
27 national assessments.

28 (c) Fiscal solvency, as measured by the standards and criteria  
29 adopted by the state board pursuant to Section 33127 and  
30 implementing regulations.

31 (d) Positive growth, as measured by the district's Academic  
32 Performance Index score, the annual assessments administered  
33 pursuant to Article 4 (commencing with Section 60640) of Chapter  
34 5 of Part 33, and any other local, state, or national assessments.

35 (e) An increase in the district's graduation rate, as measured by  
36 the California Longitudinal Pupil Achievement Data System and  
37 the school district level data system.

38 (f) Improvement in the district's college entrance rate, as  
39 measured by the National Student Clearinghouse or other  
40 state-approved pupil data tracking system.

1 (g) ~~The~~ *Improvement in the* number of pupils who enter technical  
2 school after graduation, as measured by the National Student  
3 Clearinghouse or other state-approved pupil data tracking system,  
4 or who graduate prepared to enter high-wage, high-skill  
5 occupations.

6 63063. ~~The~~ *(a) For the 2011–12, 2012–13, and 2013–14 fiscal*  
7 *years, the Superintendent shall apportion do all of the following:*

8 *(1) Apportion to the school districts selected for participation*  
9 *in the pilot project a categorical education block grant that is based*  
10 *on the the amounts of funding those school districts received in*  
11 *the 2009–10 fiscal year for the budget items listed in paragraph*  
12 *(2) of subdivision (a) of Section 42605 and Items 6110-111-0001*  
13 *except the amount apportioned for special education pupil*  
14 *transportation, 6110-119-0001, 6110-128-0001, ~~6110-130-0001,~~*  
15 *6110-158-0001, ~~6110-166-0001,~~ 6110-196-0001, and*  
16 *6110-234-0001 of Section 2.00 of the annual Budget Act.*

17 *(2) Increase or decrease the amounts apportioned pursuant to*  
18 *paragraph (1) proportional to any increase or decrease in the*  
19 *amounts appropriated in Section 2.00 of the annual Budget Act*  
20 *for the budget items listed in paragraph (1).*

21 *(3) Provide an apportionment schedule to the school districts*  
22 *selected for participation in the pilot project that separately*  
23 *itemizes and differentiates the amount apportioned for each budget*  
24 *item listed in paragraph (2) of subdivision (a) of Section 42605*  
25 *and in paragraph (1).*

26 *(4) Allocate the amounts apportioned pursuant to paragraph*  
27 *(1) to the school districts selected for participation in the pilot*  
28 *project on the same timeline that apportionments related to those*  
29 *budget items are apportioned to other school districts.*

30 *(b) Each apportionment made pursuant to subdivision (a) to*  
31 *the school districts selected for participation in the pilot project*  
32 *shall be in lieu of funding that those school districts would have*  
33 *received from the same budget items if not participating in the*  
34 *pilot project. A school district shall not receive duplicated funding*  
35 *as a result of participation in the pilot project.*

36 63064. (a) Notwithstanding any other law, a participating  
37 school district may use the categorical education block grant funds  
38 that it receives pursuant to Section 63063 for any purpose related  
39 to improving pupil achievement and academic instruction, except  
40 as provided in subdivision (b).

1 (b) With respect to funds received pursuant to Item  
 2 6110-128-0001 of Section 2.00 of the annual Budget Act, a  
 3 participating school district shall use these funds to supplement  
 4 the base program provided to English learners and economically  
 5 disadvantaged pupils, as those terms are defined in Section 54026.

6 (c) *With respect to funds received pursuant to Item*  
 7 *6110-119-0001 of Section 2.00 of the annual Budget Act, a*  
 8 *participating school district shall use these funds to supplement*  
 9 *the base program provided to foster youth.*

10 (d) *With respect to funds received pursuant to Item*  
 11 *6110-196-0001 of Section 2.00 of the annual Budget Act, a*  
 12 *participating school district shall use these funds to ensure that*  
 13 *child care and development services continue to be provided to*  
 14 *subsidized low-income children.*

15 (e) *It is the intent of the Legislature that the educational needs*  
 16 *of pupils served by the categorical programs funded by the budget*  
 17 *items listed in paragraph (1) of subdivision (a) of Section 63063*  
 18 *be served by a school district selected for participation in the pilot*  
 19 *project.*

20 (e)

21 (f) It is not the intent of the Legislature to waive requirements  
 22 of any educational programs enacted through the initiative process.

23 (d)

24 (g) A participating school district shall implement an open and  
 25 transparent process that allows public input at a *no less than two*  
 26 *regularly scheduled meeting of the governing board when*  
 27 *discussing and deciding on the expenditure of categorical education*  
 28 *block grant funds. meetings of the governing board so as to notify*  
 29 *parents, staff, and the community of discussions and pending*  
 30 *decisions related to the flexible use of funds apportioned pursuant*  
 31 *to subdivision (a) of Section 63063. The school district shall seek*  
 32 *input from parents, staff, and the community regarding the option*  
 33 *or options most suitable for the district and schools in the district.*  
 34 *The governing board shall not take action on this item at the first*  
 35 *meeting at which the item appears on the agenda.*

36 63065. (a) Notwithstanding any other law, for the 2011–12,  
 37 2012–13, and 2013–14 fiscal years, a participating school district  
 38 shall be deemed to be in compliance with the program and funding  
 39 requirements contained in statutory, regulatory, and provisional

1 language associated with the items listed in Section 63063 and  
2 paragraph (2) of subdivision (a) of Section 42605.

3 (b) Notwithstanding subdivision (a), a participating school  
4 district that receives funds pursuant to Item 6110-128-0001 of  
5 Section 2.00 of the annual Budget Act shall continue to designate  
6 staff to coordinate services and programs, including the home  
7 language survey, for English learners and shall continue in  
8 existence parent advisory committees and schoolsite councils, as  
9 required pursuant to Section 62002.5.

10 63066. (a) A participating school district shall submit an  
11 evaluative annual report to the department, the state board, the  
12 Governor, and the Legislature that details the progress made during  
13 the immediately prior school year towards the goals set forth in  
14 Section 63061, including details of the academic progress made  
15 by pupil subgroups.

16 (b) A participating school district also shall submit to the  
17 department an annual expenditure report *for each of the 2011–12,*  
18 *2012–13, and 2013–14 fiscal years*, detailing the expenditure of  
19 specific categorical program funds and the purposes for which  
20 those funds were expended. ~~To the extent feasible, the report shall~~  
21 ~~identify~~ *The report shall do all of the following:*

22 (1) *Identify* the weighting of per pupil expenditures from all  
23 funds spent on low socioeconomic, limited-English proficient, and  
24 special education pupils, as compared to other pupils in the school  
25 district.

26 ~~(e) The participating school districts shall provide for the~~  
27 ~~following independent evaluation reports:~~

28 (2) *Compare the identified weightings of per pupil expenditures*  
29 *reported pursuant to paragraph (1) to the weightings of per pupil*  
30 *expenditures spent in the 2009–10 fiscal year on pupils in the pupil*  
31 *subgroups listed in paragraph (1).*

32 (3) *Be in a format designated by the Superintendent, using the*  
33 *Standardized Account Code Structure (SACS) and consistent with*  
34 *the California School Accounting Manual, and shall provide the*  
35 *ability to track each of the amounts apportioned pursuant to*  
36 *subdivision (a) of Section 63063 with respect to resource, program,*  
37 *function, and object.*

38 (4) *Be submitted by the date designated as the deadline for*  
39 *submission of school district annual financial statements.*

1 (c) The Superintendent shall provide guidance to the  
2 participating school districts so as to ensure that the expenditure  
3 reports submitted pursuant to subdivision (b) conform to the  
4 requirements placed on those reports.

5 (d) By June 1, 2011, the Superintendent shall contract for the  
6 completion of an independent evaluation of the pilot project.

7 (1) The contracted independent evaluator shall provide the  
8 Legislature, Governor, Superintendent, state board, and the  
9 participating school districts with:

10 ~~(1)~~

11 (A) An interim report no later than 18 months after the  
12 Superintendent apportions funding pursuant to Section 63063.

13 ~~(2) A~~

14 (B) By December 31, 2014, a final evaluation report that  
15 identifies the success and failures of the pilot program and makes  
16 recommendations regarding improving the pilot program and  
17 whether the program should be continued.

18 (2) The evaluation shall make use of school district expenditure  
19 reports submitted pursuant to subdivision (b), school district plans  
20 as described in Section 63061, and any other available financial,  
21 programmatic, and pupil outcome data currently collected and  
22 available.

23 (3) Upon request by the evaluator, the department and the  
24 participating school districts shall provide any available data that  
25 the evaluator deems necessary to meaningfully evaluate the pilot  
26 project.

27 (4) This subdivision does not relieve a school district or any  
28 other party from obligations under state or federal law to protect  
29 pupil privacy.

30 (5) The Superintendent may bill the participating school  
31 districts, up to a total of no more than one hundred thousand  
32 dollars (\$100,000), for the contract amount of the evaluator's  
33 contract. The billing shall be proportionately distributed to each  
34 of the participating school districts on the basis of total district  
35 enrollment.

36 63067. The board and the Superintendent shall not grant a  
37 request for a waiver of a provision of this chapter unless the waiver  
38 is authorized in this chapter.

1     ~~64067.~~  
2     63068. This chapter shall become inoperative on July 1, 2014,  
3 and, as of January 1, 2015, is repealed, unless a later enacted  
4 statute, that becomes operative on or before January 1, 2015,  
5 deletes or extends the dates on which it becomes inoperative and  
6 is repealed.

O